

**HOUSE . . . . . No. 2241**

By Mr. Scibak of South Hadley, petition of John W. Scibak and others relative to establishing a drug repository program in the Commonwealth. Public Health.

**The Commonwealth of Massachusetts**

PETITION OF:

John W. Scibak	Peter V. Kocot
David Paul Linsky	Stephen R. Canessa
Mary E. Grant	Kay Khan
Douglas W. Petersen	Jennifer M. Callahan
Patricia D. Jehlen	

In the Year Two Thousand and Seven.

AN ACT PROVIDING FOR THE ESTABLISHMENT AND OPERATION OF A DRUG REPOSITORY PROGRAM.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Notwithstanding any general or special law to the  
2 contrary, the Department of Public Health and the Board of Registra-  
3 tion in Pharmacy shall establish a drug repository program to accept  
4 and dispense prescription drugs donated for the purpose of being  
5 dispensed to individuals who are residents of the Commonwealth  
6 and meet the eligibility standards established in the administrative  
7 regulations promulgated by the Department and the Board pursuant  
8 to Section 5 of this Act.

1 SECTION 2. Only drugs in their original sealed and tamper-evi-  
2 dent unit dose packaging may be accepted and dispensed. The pack-  
3 aging must be unopened, except that drugs packaged in single unit  
4 doses may be accepted and dispensed when the outside packaging is  
5 opened if the single unit dose packaging is undisturbed. Drugs  
6 donated by individuals bearing an expiration date that is less than six  
7 months from the date the drug is donated shall not be accepted or  
8 dispensed. A drug shall not be accepted or dispensed if there is

9 reason to believe that it is adulterated pursuant to Section 186 of  
10 Chapter 94 of the General Laws, as appearing in the 2004 Official  
11 Edition. Nothing in this section shall be construed as prohibiting a  
12 pharmacy from accepting drugs that are not eligible to be dispensed  
13 under the drug repository program for the proper disposal of those  
14 drugs.

1 SECTION 3. (a) Any person, including a drug manufacturer,  
2 health care facility, or government entity, may donate prescription  
3 drugs to the drug repository program. The drugs must be donated at  
4 a pharmacy, hospital, or a nonprofit clinic that elects to participate in  
5 the drug repository program and meets the criteria for participation  
6 established by rule of the Department. Participation in the program  
7 by pharmacies, hospitals and nonprofit clinics shall be voluntary.  
8 Nothing in this Act shall require a pharmacy, hospital or nonprofit  
9 clinic to participate in the program.

10 (b) A pharmacy, hospital, or nonprofit clinic that participates in  
11 the program shall dispense drugs to individuals who meet the eligi-  
12 bility standards established, or to other government entities and non-  
13 profit private entities to be dispensed to individuals who meet the  
14 eligibility standards. A drug may be dispensed only pursuant to a  
15 valid drug order. A pharmacy, hospital or nonprofit clinic that  
16 accepts donated drugs shall comply with all applicable federal laws  
17 and laws of the Commonwealth dealing with storage and distribution  
18 of dangerous drugs and shall inspect all drugs before dispensing  
19 them to determine that they are not adulterated. The pharmacy, hos-  
20 pital, or nonprofit clinic may charge individuals receiving donated  
21 drugs a handling fee established in accordance with the administra-  
22 tive regulations promulgated by the Department and the Board under  
23 Section 5 of this Act.

24 (c) Drugs donated to the repository shall not be resold.

1 SECTION 4. (a) The Department of Public Health; the Board of  
2 Registration in Pharmacy, any person, including a drug manufac-  
3 turer, health care facility, or government entity that donates drugs to  
4 the repository program; any pharmacy, hospital, nonprofit clinic or  
5 health care professional that accepts or dispenses drugs under the  
6 program; and any pharmacy, hospital, or nonprofit clinic that  
7 employs a health care professional who accepts or dispenses drugs

8 under the program shall not, in the absence of bad faith, be subject to  
9 any criminal prosecution, liability in tort or other civil action for  
10 injury, death, or loss to person or property; or professional discipli-  
11 nary action, relating to donating, accepting, or dispensing drugs  
12 under the drug repository program.

13 (b) A drug manufacturer shall not, in the absence of bad faith, be  
14 subject to criminal prosecution or liability in tort or other civil action  
15 for injury, death, or loss to person or property for matters related to  
16 the donation, acceptance, or dispensing of a drug manufactured by  
17 the drug manufacturer that is donated under the program, including  
18 but not limited to liability for failure to transfer or communicate  
19 product or consumer information or the expiration date of the  
20 donated drug.

1 SECTION 5. In consultation with the Department of Public  
2 Health, the Board of Registration in Pharmacy shall establish rules  
3 and regulations governing the drug repository program that establish  
4 all of the following:—

5 (a) Eligibility criteria for pharmacies, hospitals, and nonprofit  
6 clinics to receive and dispense donated drugs under the program;

7 (b) Standards and procedures for accepting, safely storing, and  
8 dispensing donated drugs;

9 (c) Standards and procedures for inspecting donated drugs to  
10 determine that the original unit dose packaging is sealed and tamper-  
11 evident and that the drugs are unadulterated, safe and suitable for  
12 dispensing;

13 (d) Eligibility standards based on economic need for individuals  
14 to receive drugs;

15 (e) A means, such as an identification card, by which an indi-  
16 vidual who is eligible to receive donated drugs may demonstrate eli-  
17 gibility to the pharmacy, hospital, or nonprofit clinic dispensing the  
18 drugs;

19 (f) A form that an individual receiving a drug from the repository  
20 must sign before receiving the drug to confirm that the individual  
21 understands the immunity provisions of the program;

22 (g) A formula to determine the handling fee that pharmacies, hos-  
23 pitals, and nonprofit clinics may charge to drug recipients to cover  
24 restocking and dispensing costs;

25 (h) For drugs donated to the repository by individuals:—

- 26 1.) A list of drugs, arranged either by category or by individual  
27 drug, that the repository will accept from individuals;
- 28 2.) A list of drugs, arranged either by category or by individual  
29 drug, that the repository will not accept from individuals, including a  
30 statement as to why the drug is ineligible for donation; and
- 31 3.) A form each donor must sign stating that the donor is the  
32 owner of the drugs and intends to voluntarily donate them to the  
33 repository;
- 34 (i) For drugs donated to the repository by health care facilities or  
35 governmental entities:—
- 36 1.) A list of drugs, arranged either by category or by individual  
37 drug, that the repository will accept from health care facilities or  
38 governmental entities;
- 39 2.) A list of drugs, arranged either by category or by individual  
40 drug, that the repository will not accept from health care facilities or  
41 governmental entities, including a statement as to why the drug is  
42 ineligible for donation; and
- 43 (j) Any other standards and procedures the Board considers  
44 appropriate.