

SENATE NO. 412

AN ACT REQUIRING THE COMMONWEALTH TO IMPLEMENT A PROGRAM TO PURCHASE PRESCRIPTION DRUGS FROM CANADA WHEN SUCH PURCHASES BECOME LEGAL UNDER FEDERAL LAW

*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. Chapter 6A of the General laws, as amended by section 15 of chapter 26 of the
2 Acts of 2003, is hereby amended by inserting after section 16 the following new section:-
- 3 Section 16A ½. (A) Notwithstanding any general or special law to the contrary, the Secretary of
4 Health and Human Services in consultation with the Secretary of Elder Affairs shall create a
5 program to allow state employees, retirees and their family members who are insured by the
6 Commonwealth, Mass Health recipients and Prescription Advantage enrollees to purchase their
7 prescription medications from Canada through one or more licensed Canadian pharmacies
8 within 90 days of such purchase becoming legal under federal law. The program shall be
9 optional for participants and shall provide financial incentives to enrollees in the form of
10 reduced co-payments or health insurance premiums.
- 11 The program shall have the following restrictions:

- 12 (1) Purchases may be made only through a licensed Canadian pharmacy;
- 13 (2) Only drugs that have been approved by the appropriate federal agencies in Canada as to
14 the drugs' formulation, source and specification of active ingredients, processing methods,
15 manufacturing controls, and the container, closure or packaging of the drug may be purchased
16 through this program;
- 17 (3) The Secretary shall establish standards for packaging and shipment of the drugs to
18 participants that include tamper proof requirements and temperature controls for medications
19 that need to be maintained at a specific temperature;
- 20 (4) All purchases through this program must be accompanied by a valid prescription from
21 the enrollee's physician;
- 22 (5) An enrollee may only purchase medications through this program that he or she has
23 taken for at least 30 days as purchased from a pharmacy in the United States;
- 24 (6) Medications purchased through this program may be for personal use only and may not
25 be re-sold in any form; and
- 26 (7) Purchases may be for no more than a 90-day supply per order.

27 (B) Within 90 days of the establishment of this program, the Secretary of Human Services shall
28 expand the program to assist residents of the Commonwealth without adequate coverage for
29 prescription drugs in purchasing their medications from the same licensed pharmacy or
30 pharmacies in Canada. For the purposes of this section, a resident without adequate coverage
31 means a resident of the commonwealth with no insurance coverage for prescription drugs or

32 with coverage for which the annual maximum coverage limit under his health benefit plan has
33 been reached. All the same requirements of subsection A shall apply. The Secretary may
34 establish an enrollment fee to cover administrative costs of the program for these residents, but
35 all cost savings shall be realized by the enrollee.

36 (C) Any aggregate or bulk purchasing program operated by the secretary of health and human
37 services for the purchase of prescription drugs under section 271 of chapter 127 of the acts of
38 the Acts of 1999 or section 62 of chapter 177 of the Acts of 2001 or any other authority shall
39 include an option for participants to purchase drugs from Canada through the program
40 authorized by this section in order to maximize cost savings of the aggregate purchasing plan.

41 (D) Within 180 days of the establishment of the initial program, the secretary shall file a report
42 with the House and Senate Committees on Ways and Means and the House and Senate Clerk
43 detailing the number of participants in the program, a break down of participants by insurance
44 group, the medications purchased through the program, the amount of savings realized by the
45 Commonwealth, the amount of savings passed on to enrollees and any reports of safety
46 concerns in the implementation of this program.

47 (E) The Secretary shall discontinue the program when medications purchased through the
48 program can be purchased for comparable prices through Massachusetts' pharmacies. The
49 Secretary shall determine if prices are comparable by comparing the cost of the 20 medications
50 most commonly purchased through the program with the cost of the same 20 medications
51 purchased by those insured by the Commonwealth who are not enrolled in the program. The
52 Secretary shall consider prices comparable if the average cost of these 20 medications
53 purchased outside the program are no more than 10% more expensive than the cost of the

54 medications purchased through the program including shipping and handling costs. The
55 Secretary shall annually compare prices in this manner to determine if such comparability
56 exists. When the Secretary has determined that discontinuing the program is appropriate under
57 the requirements of this section, he shall notify all enrollees, the Joint Committee on Health
58 Care, the House and Senate Committees on Ways and Means and the House and Senate Clerk
59 30 days prior to discontinuing the program.