

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1035**

Introduced by Hughes, 24; Aguilar, 35; Ballard, 21; Blood, 3; Bosn, 25; Bostar, 29; Bostelman, 23; Brandt, 32; Cavanaugh, J., 9; Cavanaugh, M., 6; Clements, 2; Conrad, 46; Day, 49; DeBoer, 10; DeKay, 40; Dungan, 26; Hardin, 48; Holdcroft, 36; Ibach, 44; Lippincott, 34; Lowe, 37; McKinney, 11; Murman, 38; Riepe, 12; Sanders, 45; Slama, 1; von Gillern, 4; Walz, 15; Wayne, 13.

Read first time January 05, 2024

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to public health and welfare; to adopt the
- 2 Prescription Drug Donation Program Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 7 of this act shall be known and may be  
2 cited as the Prescription Drug Donation Program Act.

3           Sec. 2. For purposes of the Prescription Drug Donation Program Act:

4           (1) Department means the Department of Health and Human Services;

5           (2) Health care facility has the definition found in section 71-413  
6 and includes the office of an individual licensed to practice medicine  
7 and surgery or osteopathic medicine and surgery;

8           (3) Pharmacy has the definition found in section 71-425;

9           (4) Prescribing practitioner means a health care practitioner  
10 licensed under the Uniform Credentialing Act who is authorized to  
11 prescribe drugs;

12           (5) Prescription drug has the definition found in section 38-2841  
13 excluding controlled substances as defined in section 28-401 and any  
14 drugs subject to the requirements of 21 U.S.C. 355-1(f)(3); and

15           (6) Program means the Prescription Drug Donation Program approved  
16 pursuant to section 3 of this act.

17           Sec. 3. The department shall approve a prescription drug donation  
18 program that meets the criteria set forth in section 5 of this act and  
19 may designate or appoint an individual to administer the program.  
20 Participation in the program shall be voluntary.

21           Sec. 4. Any individual or entity, including, but not limited to, a  
22 prescription drug manufacturer or health care facility, may donate  
23 prescription drugs, over the counter medicines and products, and supplies  
24 to the program. A health care facility or pharmacy may charge a handling  
25 fee for distributing or dispensing prescription drugs or supplies under  
26 the program.

27           Sec. 5. The department shall ensure that donated prescription drugs  
28 meet the following requirements:

29           (1) A prescription drug or supply is in its original, unopened,  
30 sealed, and tamper-evident packaging. A prescription drug packaged in  
31 single unit doses may be accepted and dispensed if the outside packaging

1 is opened but the single-unit-dose packaging is unopened. There shall be  
2 no limitation on the number of doses that can be donated to the program.

3 (2) The prescription drug or supply is inspected by the program  
4 before the prescription drug or supply is dispensed by a licensed  
5 pharmacist and such drugs are only dispensed pursuant to a prescription  
6 issued by a prescribing practitioner. Such drugs may be distributed to  
7 another health care facility or pharmacy for dispensing.

8 (3) The prescription drug (a) bears an expiration date that is more  
9 than six months after the date the prescription drug was donated, except  
10 that such drug may be accepted and distributed if the drug is in high  
11 demand as determined by the program and can be dispensed for use, (b) is  
12 not adulterated or misbranded as defined in section 71-2461 or 71-2470,  
13 (c) has not expired, and (d) does not have restricted distribution by the  
14 federal Food and Drug Administration.

15 Sec. 6. (1) The program shall (a) comply with all applicable  
16 provisions of state and federal law relating to the storage,  
17 distribution, and dispensing of donated prescription drugs and (b) not  
18 resell donated prescription drugs and supplies.

19 (2) Nothing in the Prescription Drug Donation Program Act shall be  
20 construed to restrict the use of samples by a prescribing practitioner  
21 during the course of such practitioner's duties at a health care facility  
22 or pharmacy.

23 Sec. 7. (1) Any individual or entity which exercises reasonable  
24 care in donating, accepting, distributing, or dispensing prescription  
25 drugs or supplies under the Prescription Drug Donation Program Act or  
26 rules and regulations adopted and promulgated by the department shall be  
27 immune from civil or criminal liability or professional disciplinary  
28 action of any kind for any injury, death, or loss to person or property  
29 relating to such activities.

30 (2) Any individual administering such program shall be immune from  
31 civil or criminal liability or professional disciplinary action of any

1 kind for any injury, death, or loss to person or property relating to  
2 such activities.

3 (3) A drug manufacturer shall not, in the absence of bad faith or a  
4 finding of gross negligence, be subject to criminal prosecution or  
5 liability in tort or other civil action, for injury, death, or loss to a  
6 person or property for matters related to the donation, acceptance, or  
7 dispensing of a drug manufactured by the drug manufacturer that is  
8 donated by any person under the program, including, but not limited to,  
9 liability for failure to transfer or communicate product or consumer  
10 information or the expiration date of the donated prescription drug.