

4708

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law and the public health law, in relation
to the prescription drug reimportation protection program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The executive law is amended by adding a new section 216-e
2 to read as follows:
3 S 216-E. PRESCRIPTION DRUG REIMPORTATION PROTECTION PROGRAM. 1. THE
4 SUPERINTENDENT SHALL ESTABLISH A PROGRAM TO INVESTIGATE ACTUAL AND/OR
5 SUSPECTED CASES OF REIMPORTATION OF UNSAFE DRUGS WITHIN THIS STATE AND
6 MAY ASSIGN EMPLOYEES AS DEEMED NECESSARY FOR THE PROPER OPERATION OF
7 SUCH PROGRAM.
8 2. THE PROGRAM SHALL PROVIDE THAT THE STATE POLICE MAY INVESTIGATE, AS
9 PROVIDED IN THIS SECTION, ANY INTERNET WEBSITE WHICH OFFERS OR PROVIDES
10 A MECHANISM TO SELL PRESCRIPTION DRUGS TO CONSUMERS IN NEW YORK FROM
11 ANOTHER COUNTRY OR ANY ENTITY ACTING AS A MIDDLEMAN OR AGENT IN THE
12 IMPORTATION OR REIMPORTATION FOR SALE OF PRESCRIPTION DRUGS FROM OTHER
13 COUNTRIES. THE PROGRAM SHALL PROVIDE THAT THE STATE POLICE SHALL INVES-
14 TIGATE ANY COMPLAINT FROM A GOVERNMENT OFFICIAL, OR FROM AN INDIVIDUAL,
15 CLAIMING THAT PRESCRIPTION DRUGS BEING IMPORTED OR REIMPORTED BY SUCH
16 ENTITY OR THROUGH SUCH WEBSITE ARE ADULTERATED OR MISLABELED OR OTHER-
17 WISE IN VIOLATION OF SECTION SIXTY-EIGHT HUNDRED ELEVEN OF THE EDUCATION
18 LAW.
19 3. THE PROGRAM SHALL FURTHER PROVIDE THAT THE STATE POLICE SHALL ACT
20 AS THE COORDINATING AGENCY RESPONDING TO CASES OF SUSPECTED IMPORTATION
21 OR REIMPORTATION OF PRESCRIPTION DRUGS IN A MANNER THAT IS IN VIOLATION
22 OF SUCH SECTION SIXTY-EIGHT HUNDRED ELEVEN OF THE EDUCATION LAW. THE
23 SUPERINTENDENT OF STATE POLICE SHALL BY REGULATION ESTABLISH UNIFORM
24 PROCEDURES FOR INVESTIGATION AND THE RECEIPT OF SUCH COMPLAINTS FROM
25 OTHER AGENCIES INVOLVED IN SUCH CASES.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD06214-01-9

1 4. THE SUPERINTENDENT, IN COOPERATION WITH THE DEPARTMENT OF HEALTH,
2 THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE DEPARTMENT OF AGRICULTURE
3 AND MARKETS, AND OTHER PERTINENT AGENCIES, SHALL PROMULGATE SUCH ADDI-
4 TIONAL RULES AND REGULATIONS WHICH IN THE SUPERINTENDENT'S DISCRETION
5 ARE NECESSARY FOR THE EFFICIENT OPERATION OF THIS SECTION. THESE REGU-
6 LATIONS SHALL INCLUDE BUT NOT BE LIMITED TO THE FOLLOWING:

7 A. THE ESTABLISHMENT OF UNIFORM PROCEDURES TO BE USED WHENEVER A LAW
8 ENFORCEMENT OR REGULATORY AGENCY OR OTHER AGENCY BECOMES INVOLVED IN A
9 SUSPECTED IMPORTATION OR REIMPORTATION OF PRESCRIPTION DRUGS IN A MANNER
10 THAT IS IN VIOLATION OF SUCH SECTION SIXTY-EIGHT HUNDRED ELEVEN OF THE
11 EDUCATION LAW. SUCH REGULATIONS SHALL REQUIRE THAT THE STATE POLICE
12 PROVIDE DIRECT INVESTIGATIVE ASSISTANCE OR SUPPORT SERVICES TO ANY LAW
13 ENFORCEMENT OR REGULATORY AGENCY UPON REQUEST;

14 B. THE ESTABLISHMENT OF A COMPUTERIZED CENTRAL DATA BASE, LOCATED AT
15 DIVISION HEADQUARTERS, WHICH WILL FUNCTION AS AN INFORMATION MANAGEMENT
16 AND RETRIEVAL SYSTEM FOR SUCH MATTERS. NOTIFICATION OF ALL SUCH CASES
17 MADE TO LAW ENFORCEMENT, REGULATORY AGENCIES OR OTHER AGENCIES SHALL BE
18 REPORTED TO THE CENTRAL DATA BASE WITHIN FIVE HOURS OF SUCH NOTIFICA-
19 TION;

20 C. AUTHORIZATION, UPON REQUEST, TO USE THE SCIENTIFIC CRIME DETECTION
21 LABORATORY TO ANALYZE EVIDENCE IN CONNECTION WITH STATE POLICE CASES OR
22 CASES THAT ORIGINATE WITH OTHER LAW ENFORCEMENT, REGULATORY AGENCIES OR
23 OTHER AGENCIES; AND

24 D. REPORTING OF ALL SUCH COMPLAINTS TO THE COMMISSIONER OF HEALTH FOR
25 USE IN THE CENTRAL REGISTRY WHICH SUCH COMMISSIONER IS REQUIRED TO
26 DEVELOP, AND TO THE FEDERAL BUREAU OF INVESTIGATION, THE FOOD AND DRUG
27 ADMINISTRATION AND/OR OTHER APPROPRIATE FEDERAL AGENCY CHARGED WITH
28 MONITORING AND PROSECUTING THE IMPORTATION OR REIMPORTATION OF DRUGS
29 WHICH ARE MISLABELED OR WHICH SHOW EVIDENCE OF TAMPERING OR ADULTERATION
30 OR OTHER VIOLATIONS OF STATE LAW.

31 5. GOOD FAITH REPORTING OR DISCLOSURE PURSUANT TO THE STATE POLICE AND
32 REPORTS BY THE STATE POLICE TO THE DEPARTMENT OF HEALTH SHALL NOT
33 CONSTITUTE LIBEL OR SLANDER OR A VIOLATION OF THE RIGHT OF PRIVACY OR
34 PRIVILEGED COMMUNICATION. ANY PERSON WHO IN GOOD FAITH REPORTS CASES OF
35 SUSPECTED IMPORTATION OR REIMPORTATION OF PRESCRIPTION DRUGS IN A MANNER
36 THAT IS IN VIOLATION OF SECTION SIXTY-EIGHT HUNDRED ELEVEN OF THE EDUCA-
37 TION LAW SHALL BE IMMUNE FROM CIVIL AND CRIMINAL LIABILITY FOR ANY
38 ACTION TAKEN IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

39 S 2. Section 206 of the public health law is amended by adding a new
40 subdivision 26 to read as follows:

41 26. (A) THE COMMISSIONER SHALL ESTABLISH A REGISTRY OF WEBSITES AND
42 ENTITIES WHICH OFFER OR PROVIDE A MECHANISM TO SELL PRESCRIPTION DRUGS
43 TO CONSUMERS IN NEW YORK FROM ANOTHER COUNTRY AND SHALL POST SUCH REGIS-
44 TRY ON A HEALTH DEPARTMENT WEBSITE ON THE INTERNET DEDICATED TO PROVID-
45 ING INFORMATION FOR SUCH REGISTRY. DATA TO BE PUBLISHED ON SUCH HEALTH
46 DEPARTMENT WEBSITE SHALL INCLUDE:

47 (I) THE NAME OF THE WEBSITE OR ENTITY WHICH OFFERS OR PROVIDES A MECH-
48 ANISM TO SELL PRESCRIPTION DRUGS TO CONSUMERS IN NEW YORK FROM ANOTHER
49 COUNTRY,

50 (II) THE NUMBER OF COMPLAINTS CONCERNING SUCH WEBSITE OR ENTITY,

51 (III) CONVICTIONS, IF KNOWN, OF THE PARTIES OPERATING THE WEBSITE, FOR
52 IMPORTING OR REIMPORTING PRESCRIPTION DRUGS WHICH ARE ADULTERATED OR
53 MISLABELED OR OTHERWISE IN VIOLATION OF SECTION SIXTY-EIGHT HUNDRED
54 ELEVEN OF THE EDUCATION LAW,

1 (IV) WHETHER THE WEBSITE OR ENTITY HAS PERMISSION FROM THE APPROPRIATE
2 FEDERAL AGENCY TO IMPORT OR REIMPORT PRESCRIPTION DRUGS INTO THIS COUN-
3 TRY, AND
4 (V) THE HEALTH DEPARTMENT WEBSITE SHALL ADDITIONALLY PROVIDE A CLEAR
5 EXPLANATION OF FEDERAL LAW CONCERNING IMPORTATION OR REIMPORTATION OF
6 PRESCRIPTION DRUGS FROM ANOTHER COUNTRY INTO THIS COUNTRY.
7 (B) GOOD FAITH REPORTING OR DISCLOSURE BY THE COMMISSIONER PURSUANT TO
8 THE REQUIREMENTS OF THIS SUBDIVISION SHALL NOT CONSTITUTE LIBEL OR SLAN-
9 DER OR A VIOLATION OF THE RIGHT OF PRIVACY OR PRIVILEGED COMMUNICATION.
10 S 3. This act shall take effect immediately.