

6282

2015-2016 Regular Sessions

I N A S S E M B L Y

March 20, 2015

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 ASSEMBLY, 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 OF STATE POLICE SHALL ESTABLISH A PROGRAM TO INVESTIGATE
5 ACTUAL AND/OR SUSPECTED CASES OF REIMPORTATION OF UNSAFE DRUGS WITHIN
6 THIS STATE AND MAY ASSIGN EMPLOYEES AS DEEMED NECESSARY FOR THE PROPER
7 OPERATION OF SUCH PROGRAM.

8 2. THE PROGRAM SHALL PROVIDE THAT THE DIVISION OF STATE POLICE MAY
9 INVESTIGATE, AS PROVIDED IN THIS SECTION, ANY INTERNET WEBSITE WHICH
10 OFFERS OR PROVIDES A MECHANISM TO SELL PRESCRIPTION DRUGS TO CONSUMERS
11 IN NEW YORK FROM ANOTHER COUNTRY OR ANY ENTITY ACTING AS A MIDDLEMAN OR
12 AGENT IN THE IMPORTATION OR REIMPORTATION FOR SALE OF PRESCRIPTION DRUGS
13 FROM OTHER COUNTRIES. THE PROGRAM SHALL PROVIDE THAT THE DIVISION OF
14 STATE POLICE SHALL INVESTIGATE ANY COMPLAINT FROM A GOVERNMENT OFFICIAL,
15 OR FROM AN INDIVIDUAL, CLAIMING THAT PRESCRIPTION DRUGS BEING IMPORTED
16 OR REIMPORTED BY SUCH ENTITY OR THROUGH SUCH WEBSITE ARE ADULTERATED OR
17 MISLABELED OR OTHERWISE IN VIOLATION OF SECTION SIXTY-EIGHT HUNDRED
18 ELEVEN OF THE EDUCATION LAW.

19 3. THE PROGRAM SHALL FURTHER PROVIDE THAT THE DIVISION OF STATE POLICE
20 SHALL ACT AS THE COORDINATING AGENCY RESPONDING TO CASES OF SUSPECTED
21 IMPORTATION OR REIMPORTATION OF PRESCRIPTION DRUGS IN A MANNER THAT IS
22 IN VIOLATION OF SUCH SECTION SIXTY-EIGHT HUNDRED ELEVEN OF THE EDUCATION
23 LAW. THE SUPERINTENDENT OF STATE POLICE SHALL BY REGULATION ESTABLISH
24 UNIFORM PROCEDURES FOR INVESTIGATION AND THE RECEIPT OF SUCH COMPLAINTS
25 FROM OTHER AGENCIES INVOLVED IN SUCH CASES.

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

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1 4. THE SUPERINTENDENT OF STATE POLICE, IN COOPERATION WITH THE DEPART-
2 MENT OF HEALTH, THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE DEPART-
3 MENT OF AGRICULTURE AND MARKETS AND OTHER PERTINENT AGENCIES, SHALL
4 PROMULGATE SUCH ADDITIONAL RULES AND REGULATIONS WHICH IN THE SUPER-
5 INTENDENT'S DISCRETION ARE NECESSARY FOR THE EFFICIENT OPERATION OF THIS
6 SECTION. THESE REGULATIONS SHALL INCLUDE BUT NOT BE LIMITED TO THE
7 FOLLOWING:

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

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

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

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

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

41 S 2. Section 206 of the public health law is amended by adding a new
42 subdivision 29 to read as follows:

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

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

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

53 (III) CONVICTIONS, IF KNOWN, OF THE PARTIES OPERATING THE WEBSITE, FOR
54 IMPORTING OR REIMPORTING PRESCRIPTION DRUGS WHICH ARE ADULTERATED OR
55 MISLABELED OR OTHERWISE IN VIOLATION OF SECTION SIXTY-EIGHT HUNDRED
56 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 WEBSITE SHALL ADDITIONALLY PROVIDE A CLEAR EXPLANATION OF
5 FEDERAL LAW CONCERNING IMPORTATION OR REIMPORTATION OF PRESCRIPTION
6 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.