

6282

2015-2016 Regular Sessions

I N   A S S E M B L Y

March 20, 2015

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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.