

# House Bill 2535

Sponsored by Representatives GELSER, BARTON; Representatives BUCKLEY, GREENLICK, STIEGLER, WITT (at the request of Deanna Kingston)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates voluntary Prescription Drug Repository Program in State Board of Pharmacy. Authorizes designated repositories to accept donated prescription drugs and medical supplies and transfer to other repositories or dispense to individuals who are uninsured, receiving public assistance or have other barriers to health care as adopted by board by rule.

Specifies conditions for receipt and dispensing of prescription drugs and medical supplies through program. Makes repositories and drug manufacturers immune from civil or criminal liability for participating in program unless conduct is willful and wanton.

Becomes operative January 1, 2010.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to donated medical items; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Sections 2 to 7 of this 2009 Act are added to and made a part of ORS chapter 689.**

**SECTION 2. As used in sections 2 to 7 of this 2009 Act, "repository" means a drug outlet that has:**

**(1) A valid certificate of registration issued by the State Board of Pharmacy;**

**(2) Volunteered to participate in the Prescription Drug Repository Program; and**

**(3) Been approved by the board to accept and dispense to needy individuals donated prescription drugs and medical supplies through the program.**

**SECTION 3. (1) There is created in the State Board of Pharmacy the Prescription Drug Repository Program. The purpose of the program is to dispense donated prescription drugs and medical supplies to needy or uninsured individuals. Participation in the program is voluntary.**

**(2) A repository may accept and dispense:**

**(a) Prescription drugs received in original, sealed, tamper-evident packaging that displays the lot number and expiration date of the drug;**

**(b) Medical supplies received in original, unopened packaging; or**

**(c) Sealed single unit dose packages received in opened packages containing multiple single unit doses.**

**(3) A repository may not dispense donated prescription drugs or medical supplies that:**

**(a) Fail to meet the requirements of this section;**

**(b) Bear an expiration date that is less than six months from the date the drug or supply is donated;**

**(c) Are adulterated or misbranded; or**

**(d) Belong to a category of drugs that may not be dispensed under the program as**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 adopted by the board by rule pursuant to section 4 of this 2009 Act.

2 (4) A repository shall:

3 (a) Require a donor of prescription drugs or medical supplies to complete and sign a do-  
 4 nor form, adopted by rule by the State Board of Pharmacy, releasing the prescription drug  
 5 or medical supply to the repository for dispensing under the program and certifying that the  
 6 donated drug or supply has been properly stored, has never been opened or used, adulterated  
 7 or misbranded;

8 (b) Ensure that a visual inspection is conducted by a pharmacist of all donated pre-  
 9 scription drugs and medical supplies to verify compliance with this section and rules adopted  
 10 by the board under section 4 of this 2009 Act;

11 (c) Properly dispose of all prescription drugs and medical supplies that do not meet the  
 12 requirements of this section and rules adopted by the board under section 4 of this 2009 Act;

13 (d) Maintain separate confidential files for individuals receiving donated prescription  
 14 drugs or medical supplies through the program;

15 (e) Obliterate personally identifying information from the labels of donated prescription  
 16 drugs and medical supplies;

17 (f) Maintain an inventory of donated prescription drugs and medical supplies separate  
 18 from the repository's commercial inventory;

19 (g) Store donated prescription drugs and medical supplies in a secure location to be used  
 20 exclusively for the program;

21 (h) Report to the board on the activities of the repository in the form and manner re-  
 22 quired by the board; and

23 (i) Require a recipient of a donated prescription drug or medical supply to sign a form,  
 24 as adopted by the board by rule, attesting that the recipient has been notified by the repos-  
 25 itory that:

26 (A) The prescription drug or medical supply dispensed to the recipient was donated to the  
 27 program;

28 (B) A visual inspection was conducted by a pharmacist to ensure that the drug has not  
 29 expired, been adulterated or misbranded and is in its original, sealed packaging;

30 (C) A pharmacist has determined that the drug or medical supply is safe to dispense  
 31 based on the accuracy of the donor's form and the visual inspection by the pharmacist; and

32 (D) Participants in the program are immune from liability as provided in section 7 of this  
 33 2009 Act.

34 (5) A repository may not charge a fee for accepting a donation but may charge a fee es-  
 35 tablished by the board by rule for dispensing a prescription drug or medical supply.

36 (6) A repository may not sell any prescription drugs or medical supplies received as a  
 37 donation through the program.

38 (7) A repository may refuse to accept a prescription drug or medical supply that, upon  
 39 visual inspection, appears not to qualify for dispensing under section 4 of this 2009 Act or  
 40 this section.

41 (8) A repository may dispense donated prescription drugs and medical supplies to:

42 (a) Another repository to dispense through the program; or

43 (b) An individual with a new prescription, for prescription drugs or medical supplies that  
 44 require a prescription, who meets the requirements of section 6 of this 2009 Act.

45 **SECTION 4.** The State Board of Pharmacy shall adopt rules to carry out sections 2 to 7

1 of this 2009 Act, including but not limited to:

2 (1) Specifying categories of prescription drugs or medical supplies that a repository may  
3 not dispense under the program;

4 (2) Prescribing the forms described in section 3 of this 2009 Act;

5 (3) Establishing the criteria for designation as a repository under the Prescription Drug  
6 Repository Program;

7 (4) Establishing standards and procedures for accepting, storing, dispensing, shipping and  
8 disposing of prescription drugs and medical supplies under the program;

9 (5) Establishing standards and procedures for inspecting donated prescription drugs and  
10 medical supplies to ensure that they comply with the requirements of section 3 of this 2009  
11 Act and this section; and

12 (6) Establishing record keeping and reporting requirements for repositories.

13 **SECTION 5.** The State Board of Pharmacy shall ensure compliance with sections 2 to 7  
14 of this 2009 Act by:

15 (1) Inspecting repositories on a regular basis; and

16 (2) Auditing records required to be maintained by repositories in connection with the  
17 Prescription Drug Repository Program.

18 **SECTION 6.** An individual is eligible to obtain donated prescription drugs or medical  
19 supplies through the Prescription Drug Repository Program created in section 3 of this 2009  
20 Act if the individual:

21 (1) Is a resident of this state; and

22 (2)(a) Does not have health insurance coverage of the prescription drug or medical supply  
23 requested;

24 (b) Is enrolled in a public assistance program as defined in ORS 411.010; or

25 (c) Meets other requirements adopted by rule by the State Board of Pharmacy that  
26 identify needy individuals with barriers to accessing prescription drugs or medical supplies.

27 **SECTION 7.** (1) As used in this section, "participant" means:

28 (a) A donor of a prescription drug or medical supply to the Prescription Drug Repository  
29 Program;

30 (b) A repository;

31 (c) The State Board of Pharmacy;

32 (d) A pharmacist; or

33 (e) A drug manufacturer.

34 (2) Unless a participant's conduct is willful and wanton, accepting donations or dispensing  
35 prescription drugs or medical supplies through the Prescription Drug Repository Program  
36 does not subject the participant to:

37 (a) Criminal prosecution; or

38 (b) Civil liability for injury, death or loss to person or property.

39 **SECTION 8.** No later than November 1, 2010, and each November 1 thereafter, the State  
40 Board of Pharmacy shall report to the Governor and to the appropriate interim legislative  
41 committees on the operation of the Prescription Drug Repository Program.

42 **SECTION 9.** The State Board of Pharmacy may take any action before the operative date  
43 of sections 2 to 7 of this 2009 Act that is necessary to enable the board to carry out the  
44 provisions of sections 2 to 7 of this 2009 Act on and after the operative date of sections 2 to  
45 7 of this 2009 Act.

1        **SECTION 10.** Sections 2 to 7 of this 2009 Act become operative on January 1, 2010.

2        **SECTION 11.** This 2009 Act being necessary for the immediate preservation of the public  
3        **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
4        **on its passage.**

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