

1 **DONATION OF PHARMACEUTICAL DRUGS -**
2 **LIABILITY PROTECTION**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Pete Suazo**

6 AN ACT RELATING TO THE JUDICIAL CODE; EXTENDING IMMUNITY FROM CIVIL
7 SUIT TO A DRUG OUTLET OR HEALTH CARE PROVIDER THAT DISTRIBUTES A
8 PRESCRIPTION DRUG OR DEVICE TO A NEEDY PERSON AT NO CHARGE, IN GOOD
9 FAITH, AND FOR A CHARITABLE PURPOSE.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 ENACTS:

12 **78-11-22.2**, Utah Code Annotated 1953

13 *Be it enacted by the Legislature of the state of Utah:*

14 Section 1. Section **78-11-22.2** is enacted to read:

15 **78-11-22.2. Donation of prescription drugs -- Liability limits.**

16 (1) As used in this section:

17 (a) "Drug outlet" means an organization:

18 (i) licensed under Section 58-17a-102; or

19 (ii) that operates outside of the state and is qualified to handle, store, and distribute
20 prescription drugs and devices as a drug outlet or its equivalent under the law of the jurisdiction
21 in which the organization operates.

22 (b) "Health care provider" means an individual:

23 (i) licensed as a health care provider with prescriptive authority under Title 58,
24 Occupational and Professional Licensing Act, who handles, stores, and distributes prescription
25 drugs and devices in the course of his practice or on behalf of an organization; or

26 (ii) who practices outside of the state on behalf of an organization and is qualified to
27 handle, store, and distribute prescription drugs and devices as a health care provider with

28 prescriptive authority under the law of the jurisdiction in which the individual practices.
29 (c) "Prescription drug or device" is as defined in Section 58-17a-102.
30 (2) A drug outlet or health care provider who distributes, at no charge, in good faith, and
31 for a charitable purpose, an apparently wholesome and efficacious prescription drug or device to
32 another drug outlet or health care provider for ultimate distribution to a needy person and
33 substantially complies with applicable state and federal laws regarding the storage, handling, and
34 distribution of the drug or device is not subject to civil liability regarding the condition of the drug
35 or device, unless an injury or death results from an act or omission of the drug outlet or health care
36 provider that constitutes gross negligence, recklessness, or intentional misconduct.
37 (3) A health care provider who distributes, at no charge, in good faith, and for a charitable
38 purpose, an apparently wholesome and efficacious prescription drug or device directly to a needy
39 person and substantially complies with applicable state and federal laws regarding the storage,
40 handling, and distribution of the drug or device is not subject to civil liability regarding the
41 condition of the drug or device, unless an injury or death results from an act or omission of the
42 drug outlet or health care provider that constitutes gross negligence, recklessness, or intentional
43 misconduct.

Legislative Review Note
as of 2-1-99 1:10 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel