

1 **DONATION OF PRESCRIPTION DRUGS OR**
2 **DEVICES - LIABILITY PROTECTION**

3 2000 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 or devices -- Liability limits.**

16 (1) As used in this section:

17 (a) "Administer" is as defined in Section 58-17a-102.

18 (b) "Dispense" is as defined in Section 58-17a-102.

19 (c) "Distribute" is as defined in Section 58-17a-102.

20 (d) "Drug outlet" means:

21 (i) a drug outlet as defined in Section 58-17a-102; or

22 (ii) a person with the authority to engage in the dispensing, delivering, manufacturing, or
23 wholesaling of prescription drugs or devices outside of the state under the law of the jurisdiction
24 in which the person operates.

25 (e) "Health care provider" means:

26 (i) a person who is a health care provider, as defined in Section 78-14-3, with the authority
27 under Title 58, Occupations and Professions, to prescribe, dispense, or administer prescription

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28 drugs or devices; or

29 (ii) a person outside of the state with the authority to prescribe, dispense, or administer
30 prescription drugs or devices under the law of the jurisdiction in which the person practices.

31 (f) "Prescription drug or device" is as defined in Section 58-17a-102, except that it does
32 not include controlled substances as defined in Section 58-37-2.

33 (2) A drug outlet is not subject to civil liability for an injury or death resulting from the
34 defective condition of a prescription drug or device that the drug outlet distributes at no charge,
35 in good faith, and for a charitable purpose to a drug outlet or health care provider for ultimate use
36 by a needy person, provided that:

37 (a) the drug outlet complies with applicable state and federal laws regarding the storage,
38 handling, and distribution of the prescription drug or device; and

39 (b) the injury or death is not the result of any act or omission of the drug outlet that
40 constitutes gross negligence, recklessness, or intentional misconduct.

41 (3) A health care provider is not subject to civil liability for an injury or death resulting
42 from the defective condition of a prescription drug or device that the health care provider
43 distributes to a drug outlet or health care provider for ultimate use by a needy person or directly
44 administers, dispenses, or distributes to a needy person, provided that:

45 (a) the health care provider complies with applicable state and federal laws regarding the
46 storage, handling, distribution, dispensing, and administration of the prescription drug or device;

47 (b) the injury or death is not the result of any act or omission of the health care provider
48 that constitutes gross negligence, recklessness, or intentional misconduct; and

49 (c) in the event that the health care provider directly administers, distributes, or dispenses
50 the prescription drug or device to the needy person, the health care provider has retained a consent
51 form signed by the needy person that explains the provisions of this section which extend liability
52 protection for charitable donations of prescription drugs and devices.

53 (4) Nothing in this section may be construed as:

54 (a) permitting a person who is not authorized under Title 58, Occupations and Professions,
55 to operate as a drug outlet or practice as a health care provider within the state; or

56 (b) extending liability protection to any person who acts outside of the scope of authority
57 granted to that person under the laws of this state or the jurisdiction in which the person operates
58 or practices.

Legislative Review Note
as of 11-18-99 2:13 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Health and Human Services Interim Committee recommended this bill.