

1 **PRESCRIPTION DRUG IMPORTATION PROGRAM**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Norman K. Thurston**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill creates a program and reporting requirements relating to prescription drugs
10 and the importation of prescription drugs.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ requires the Department of Health to:
 - 15 • design a prescription drug importation program;
 - 16 • apply for approval of the prescription drug importation program; ~~↔~~ **↔** and ~~↔~~
 - 17 • if the program is approved, implement the provisions of the program; ~~↔~~ **↔** [**and**
 - 18 • ~~if approval is denied, study how the state can obtain approval for the program;~~ ~~↔~~ **↔**
- 19 ▶ describes the requirements of the prescription drug importation program;
- 20 ▶ modifies the Utah Antitrust Act to make certain anticompetitive activities illegal;
- 21 and
- 22 ▶ creates a sunset date for the provisions of this bill.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 63I-1-226, as last amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and
30 468

31 63I-1-276, as enacted by Laws of Utah 2014, Chapter 226

32 76-10-3104, as renumbered and amended by Laws of Utah 2013, Chapter 187

33 ENACTS:

34 26-66-101, Utah Code Annotated 1953

35 26-66-102, Utah Code Annotated 1953

36 26-66-201, Utah Code Annotated 1953

37 ~~H→ [26-66-202, Utah Code Annotated 1953] ←H~~

38 26-66-301, Utah Code Annotated 1953

39 26-66-302, Utah Code Annotated 1953

40 26-66-303, Utah Code Annotated 1953

41 26-66-304, Utah Code Annotated 1953

42 26-66-305, Utah Code Annotated 1953

43 26-66-401, Utah Code Annotated 1953



44
45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section 26-66-101 is enacted to read:

47 **CHAPTER 66. PRESCRIPTION DRUG AFFORDABILITY ACT**

48 **Part 1. General Provisions**

49 **26-66-101. Title.**

50 This chapter is known as the "Prescription Drug Affordability Act."

51 Section 2. Section 26-66-102 is enacted to read:

52 **26-66-102. Definitions.**

53 As used in this chapter:

54 (1) "Drug" means the same as that term is defined in Section 58-17b-102.

55 (2) "Health insurer" means:

56 (a) an insurer who offers health care insurance as that term is defined in Section

57 31A-1-301;

58 (b) for health benefits offered to state employees under Section 49-20-202, the Public

59 Employees' Benefit and Insurance Program created in Section 49-20-103; or

60 (c) a workers' compensation insurer:

61 (i) authorized to provide workers' compensation insurance in the state; or

62 (ii) that is a self-insured employer as defined in Section 34A-2-201.5.

63 (3) "Pharmaceutical manufacturer" means:

64 (a) a person that is engaged in the manufacturing of drugs or pharmaceutical devices
65 that are available for purchase by residents of the state; or

66 (b) a person that is responsible for setting the price of a drug or device that is available
67 for purchase by residents of the state on behalf of a person described in this Subsection (3).

68 (4) "Prescription drug importation program" means the Canadian Prescription Drug
69 Importation Program established under Section 26-66-301.

70 (5) "Secretary" means the secretary of the United States Department of Health and
71 Human Services.

72 Section 3. Section **26-66-201** is enacted to read:

73 **Part 2. Application and Certification**

74 **26-66-201. Application for approval of prescription drug importation program**
75 **and certification of Canadian drug importation.**

76 (1) The department shall submit to the secretary:

77 (a) no later than July 31, 2019, a brief letter of intent to seek approval for a program to
78 allow for the importation of prescription drugs from Canada into the state under the provisions
79 of 21 U.S.C. Sec. 384(l); and

80 (b) no later than December 31, 2019, an application for:

81 (i) the approval of a program to allow for the importation of prescription drugs from
82 Canada into the state under the provisions of 21 U.S.C. Sec. 384(l); and

83 (ii) certification by the secretary to the United States Congress, in accordance with 21
84 U.S.C. Sec. 384(l), that importation of Canadian prescription drugs will:

85 (A) pose no additional risk to the public's health and safety; and

86 (B) result in a significant reduction in the cost of covered products to the American
87 consumer.

88 (2) The application described in Subsection (1)(b) shall contain:

89 (a) the findings of ~~H~~→ [the] any ←~~H~~ prescription drug importation study ~~H~~→ [described
89a in Section] ←~~H~~

90 **H→ [26-66-202] that is available to the department ←H :**

91 (b) a description of the prescription drug importation program designed by the
 92 department in accordance with the provisions of this chapter, including measures that will be
 93 taken to:

94 (i) comply with existing state and federal law; and

95 (ii) reduce the risk to the public's health and safety; and

96 (c) an estimate of the reduction in the cost of covered products and health insurance
 97 premiums to Utah consumers.

98 (3) If the department does not believe that the department will be able to submit the
 99 application described in Subsection (1)(b) before December 31, 2019, the department shall
 100 report to the Health and Human Services Interim Committee before December 31, 2019, on:

101 (a) the reason for the delay in submitting the application;

102 (b) any steps that the department has taken to prepare the application; and

103 (c) when the department believes that the application will be ready for submission.

104 (4) If the application for the prescription drug importation program is not approved by
 105 the secretary, the department shall submit a new application in accordance with the
 106 requirements in Subsection (2) on or before December 1 of each year until the earlier of:

107 (a) approval of the prescription drug importation program by the secretary; or

108 (b) January 1, 2024.

109 (5) On or before December 1 of each year that the department submits an application
 110 under Subsection (2) or (4), the department shall submit a written report to the Health and
 111 Human Services Interim Committee regarding the results of the application and any updated
 112 findings and recommendations.

113 **H→ [Section 4. Section 26-66-202 is enacted to read:**

114 ~~—— 26-66-202. Prescription drug importation study.~~

115 ~~—— (1) As funding is available, the department shall study how to gain approval by the~~
 116 ~~secretary for the state to import certain prescription drugs from Canada for eventual use by~~
 117 ~~Utah consumers.~~

118 ~~—— (2) The study described in Subsection (1) shall include:~~

119 ~~—— (a) a plan for operating the prescription drug importation program;~~

120 ~~—— (b) a plan to ensure that prescription drugs imported into the state under the] ←H~~

~~121 **H**→ [prescription drug importation program meet applicable United States federal and state~~
~~122 standards for safety and effectiveness;~~
~~123 —— (c) examples of prescription drugs with the highest potential for consumer savings~~
~~124 through importation at the time of the study;~~
~~125 —— (d) an estimate of the total potential consumer savings attributable to importation of~~
~~126 prescription drugs;~~
~~127 —— (e) a list of potential wholesalers with whom the state could contract to distribute~~
~~128 imported prescription drugs;~~
~~129 —— (f) proposed amendments to state law to facilitate importation by the state; and~~
~~130 —— (g) in coordination with the Office of the Attorney General, proposed amendments to~~
~~131 state law to inhibit pharmaceutical manufacturers from manipulating the pharmaceutical~~
~~132 market in the state or adversely affecting consumer access to pharmaceuticals under the~~
~~133 prescription drug importation program.~~
~~134 —— (3) The department shall consult with the Utah State Board of Pharmacy,~~
~~135 representatives of the pharmaceutical industry, patient advocates, health insurers, and others~~
~~136 representing persons who could be affected by the prescription drug importation program in~~
~~137 conducting the study in this section.~~
~~138 —— (4) No later than November 1, 2019, the department shall submit a written report to the~~
~~139 Health and Human Services Interim Committee on the findings and recommendations of the~~
~~140 study described in this section.~~
~~141 —— (5) The department shall seek grant funding to conduct the study described in this~~
~~142 section.] ←H~~

143 Section 5. Section **26-66-301** is enacted to read:

144 **Part 3. Canadian Prescription Drug Importation Program**

145 **26-66-301. Canadian Prescription Drug Importation Program.**

146 The department shall establish a Canadian Prescription Drug Importation Program in
 147 accordance with the provisions in this chapter.

148 Section 6. Section **26-66-302** is enacted to read:

149 **26-66-302. Program requirements.**

150 The prescription drug importation program established under Section 26-66-301 shall:

151 (1) only allow for the importation of prescription drugs that have been identified by the