

Senate Study Bill 1143

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON RAGAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to exemption from civil liability for certain
2 participating entities under the Iowa drug donation program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2086XC 83
5 pf/nh/5

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1 1 Section 1. Section 135M.5, Code 2009, is amended to read
1 2 as follows:
1 3 135M.5 EXEMPTION FROM DISCIPLINARY ACTION, CIVIL
1 4 LIABILITY, AND CRIMINAL PROSECUTION == APPLICATION OF IOWA
1 5 TORT CLAIMS ACT.
1 6 1. A drug manufacturer acting reasonably and in good
1 7 faith, is not subject to criminal prosecution or civil
1 8 liability for injury, death, or loss to a person or property
1 9 for matters related to the donation, acceptance, or dispensing
1 10 of a prescription drug manufactured by the drug manufacturer
1 11 that is donated under this chapter, including liability for
1 12 failure to transfer or communicate product or consumer
1 13 information or the expiration date of the donated prescription
1 14 drug.
1 15 2. A third party with whom the department contracts to
1 16 implement and administer the program pursuant to section
1 17 135M.3 and a licensed wholesaler as defined in section 155A.3
1 18 with whom the third party contracts to act as the centralized
1 19 repository for the purposes of accepting donated prescription
1 20 drugs, conducting safety inspections of the prescription
1 21 drugs, and shipping the donated prescription drugs to a local
1 22 repository to be dispensed, shall be considered state agencies
1 23 solely for the purposes of this chapter and chapter 669 and
1 24 shall be afforded protection under chapter 669 as state
1 25 agencies for all claims arising from the provision of services
1 26 in accordance with this chapter. Employees, agents, and
1 27 directors of a third-party contractor or licensed wholesaler
1 28 providing services under this chapter shall be considered
1 29 employees of the state under chapter 669 and shall be afforded
1 30 protection as employees of the state under section 669.21.
1 31 2- 3. Except as provided in subsection 3 4, a person
1 32 other than a drug manufacturer subject to subsection 1 or a
1 33 third-party contractor, licensed wholesaler acting as the
1 34 centralized repository, or any employee, agent, or director of
1 35 a third-party contractor or licensed wholesaler subject to
2 1 subsection 2, acting reasonably and in good faith, is immune
2 2 from civil liability and criminal prosecution for injury to or
2 3 the death of an individual to whom a donated prescription drug
2 4 is dispensed under this chapter and shall be exempt from
2 5 disciplinary action related to the person's acts or omissions
2 6 related to the donation, acceptance, distribution, or
2 7 dispensing of a donated prescription drug under this chapter.
2 8 3- 4. The immunity and exemption provided in subsection 2
2 9 3 do not extend to any of the following:
2 10 a. The donation, acceptance, distribution, or dispensing
2 11 of a donated prescription drug under this chapter by a person
2 12 if the person's acts or omissions are not performed reasonably
2 13 and in good faith.
2 14 b. To acts or omissions outside the scope of the program.
2 15 EXPLANATION
2 16 This bill provides that a third party with whom the
2 17 department of public health contracts to implement and
2 18 administer the prescription drug repository program and a

2 19 licensed wholesaler with whom the third party contracts to act
2 20 as the centralized repository for the program are to be
2 21 considered state agencies solely for the purposes of the
2 22 program and the Iowa tort claims Act (Code chapter 669) and
2 23 are to be afforded protection under Code chapter 669 as state
2 24 agencies for all claims arising from the provision of services
2 25 under the program. Employees, agents, and directors of a
2 26 third-party contractor or licensed wholesaler providing
2 27 services under the program are to be considered employees of
2 28 the state under Code chapter 669 and are to be afforded
2 29 protection as employees of the state.
2 30 LSB 2086XC 83
2 31 pf/nh/5