

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To authorize, on a temporary basis, the Mayor to designate a nonprofit organization to accept and distribute donated pharmaceutical products and medical supplies for use in the emergency relief effort in Haiti, to allow health care facilities and pharmacies to donate pharmaceuticals and medical supplies to the designated nonprofit organization, and to provide immunity from criminal prosecution, civil liability, and exemption from disciplinary action to a person, health care facility, pharmacy, and the designated nonprofit organization acting reasonably, in good faith, and within the scope of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Haiti Earthquake Relief Drug and Medical Supply Assistance Temporary Act of 2010”.

Sec. 2. Definitions.

For the purposes of this act:

(1) “Adulterated” shall have the same meaning as provided in section 402 of the Federal Food, Drug, and Cosmetic Act, approved June 25, 1938 (52 Stat. 1046; 21 U.S.C. § 342)(“Food, Drug, and Cosmetic Act”) .

(2) “Health care facility” means a hospital, assisted living facility, or nursing home.

(3) “Medical supply” means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory that is:

(A) Recognized in the official National Formulary or the United States Pharmacopeia, or any supplement to them;

(B) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease or other conditions; or

(C) Intended to affect the structure or any function of the body that does not achieve its primary intended purpose through chemical action within or on the body and is

not dependent upon being metabolized for the achievement of its primary intended purpose.

(4) “Misbranded” shall have the same meaning as provided in section 402 of the Food, Drug, and Cosmetic Act (21 U.S.C. § 343).

(5) “Pharmaceutical product” means a drug or biologic for human use regulated by the federal Food and Drug Administration.

(6) “Pharmacy” means an establishment or institution where the practice of pharmacy is conducted and drugs or prescriptions are compounded or dispensed, offered for sale, given away, or displayed for sale.

Sec. 3. Donations of unused pharmaceutical products and medical supplies.

(a) The Mayor may designate a nonprofit organization to accept pharmaceutical products and medical supplies from health care facilities and pharmacies for the relief of earthquake victims in Haiti.

(b) Notwithstanding any other District law, a District pharmacy or health care facility may donate to the nonprofit organization designated by the Mayor a pharmaceutical product or medical supply, including those donated to the pharmacy or health care facility by a patient, or the patient’s relative following the death of the patient, provided that:

(1) The pharmaceutical product:

(A) Is in its original, sealed, and tamper-evident packaging; except, that a pharmaceutical product in a single-unit dose or blister pack with the outside packaging opened may be accepted provided that the single-unit dose packaging remains intact;

(B) Bears an expiration date that is more than 3 months after the date the pharmaceutical product is donated;

(C) Has been inspected by a pharmacist and the pharmacist has determined it is not adulterated or misbranded; and

(D) Is not a controlled substance; and

(2) The medical supply is inspected by a pharmacist and the pharmacist has determined that the medical supply is not adulterated or misbranded.

(c) A health care facility or pharmacy that donates a pharmaceutical product or medical supply that receives notice that the pharmaceutical product or medical supply has been recalled shall notify the designated nonprofit organization of the recall.

(d) If the designated nonprofit organization receives a recall notification from a health care facility or pharmacy, it shall ensure that the recalled pharmaceutical products and medical supplies within its control are destroyed and, if a recalled pharmaceutical product or medical supply has been sent to Haiti, attempt to ensure that the recalled pharmaceutical products and medical supplies sent to Haiti are destroyed.

Sec. 4. Immunity from liability and exemption from disciplinary action.

A person, health care facility, pharmacy, or the nonprofit organization designated by the Mayor acting reasonably, in good faith, and within the scope of this act, or any rules issued pursuant to this act, shall be immune from civil liability and criminal prosecution and exempt from disciplinary action for acts and omissions, including injury to or the death of an individual to whom a donated pharmaceutical product or medical supply is provided pursuant to this act.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia