

A bill for an act

relating to solid waste; expanding categories of persons allowed to possess legend and nonprescription drugs to include those disposing of them; modifying definitions; prohibiting flushing drugs into sewer system by health care facilities; amending Minnesota Statutes 2008, sections 151.37, subdivisions 6, 7; 151.44; proposing coding for new law in Minnesota Statutes, chapter 144.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[144.569] HANDLING OF PHARMACEUTICAL WASTE IN HEALTH CARE FACILITIES.**

Subdivision 1. **Pharmaceutical waste disposal.** Health care facilities licensed or regulated by the commissioner of health, including but not limited to nursing homes, home care and hospice entities, boarding care homes, and supervised living facilities, must not destroy or dispose of any drug by flushing the drug into the sewer or septic system. Health care facilities licensed or regulated under chapters 144, 144A, 144D, and 144G must comply with the requirements of sections 115A.1410 to 115A.1420 for the final disposition of unused or contaminated drugs.

Subd. 2. **Penalty.** For a violation of subdivision 1, the commissioner of health may impose a civil penalty not exceeding \$10,000 for each separate violation.

EFFECTIVE DATE. This section is effective six months after the United States Drug Enforcement Administration approves an alternative system of disposal for unwanted drugs that complies with the federal Controlled Substances Act.

Sec. 2. Minnesota Statutes 2008, section 151.37, subdivision 6, is amended to read:

Subd. 6. **Exclusion for course of employment.** (a) Nothing in this chapter shall prohibit the possession of a legend drug by an employee, agent, or sales representative of

a registered drug manufacturer, or an employee or agent of a registered drug wholesaler, or registered pharmacy, while acting in the course of employment.

(b) Nothing in this chapter shall prohibit the following entities from possessing a legend drug for the purpose of disposing of the legend drug as pharmaceutical waste:

(1) a law enforcement officer;

(2) a hazardous waste transporter licensed by the Department of Transportation;

(3) a facility permitted by the Pollution Control Agency to treat, store, or dispose of hazardous waste, including household hazardous waste;

(4) a facility licensed by the Pollution Control Agency or a metropolitan county as a very small quantity generator collection program or a minimal generator; or

(5) a county that collects, stores, transports, or disposes of a legend drug pursuant to a program in compliance with applicable federal law or a person authorized by the county to conduct one or more of these activities.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2008, section 151.37, subdivision 7, is amended to read:

Subd. 7. **Exclusion for prescriptions.** (a) Nothing in this chapter shall prohibit the possession of a legend drug by a person for that person's use when it has been dispensed to the person in accordance with a ~~written or oral~~ valid prescription issued by a practitioner.

(b) Nothing in this chapter shall prohibit a person, for whom a legend drug has been dispensed in accordance with a written or oral prescription by a practitioner, from designating a family member, caregiver, or other individual to handle the legend drug for the purpose of assisting the person in obtaining or administering the drug or sending the drug for destruction.

(c) Nothing in this chapter shall prohibit a person for whom a prescription drug has been dispensed in accordance with a valid prescription issued by a practitioner from transferring the legend drug to a county that collects, stores, transports, or disposes of a legend drug pursuant to a program in compliance with applicable federal law or to a person authorized by the county to conduct one or more of these activities.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2008, section 151.44, is amended to read:

151.44 DEFINITIONS.

As used in sections 151.43 to 151.51, the following terms have the meanings given in paragraphs (a) to ~~(f)~~ (h):

(a) "Wholesale drug distribution" means distribution of prescription or nonprescription drugs to persons other than a consumer or patient or reverse distribution of such drugs, but does not include:

(1) a sale between a division, subsidiary, parent, affiliated, or related company under the common ownership and control of a corporate entity;

(2) the purchase or other acquisition, by a hospital or other health care entity that is a member of a group purchasing organization, of a drug for its own use from the organization or from other hospitals or health care entities that are members of such organizations;

(3) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1988, to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(4) the sale, purchase, or trade of a drug or offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control;

(5) the sale, purchase, or trade of a drug or offer to sell, purchase, or trade a drug for emergency medical reasons;

(6) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

(7) the transfer of prescription or nonprescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(8) the distribution of prescription or nonprescription drug samples by manufacturers representatives; or

(9) the sale, purchase, or trade of blood and blood components.

(b) "Wholesale drug distributor" means anyone engaged in wholesale drug distribution including, but not limited to, manufacturers; repackers; own-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and pharmacies that conduct wholesale drug distribution. A wholesale drug distributor does not include a common carrier or individual hired primarily to transport prescription or nonprescription drugs.

(c) "Manufacturer" means anyone who is engaged in the manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug.

(d) "Prescription drug" means a drug required by federal or state law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to United States Code, title 21, sections 811 and 812.

4.1 (e) "Blood" means whole blood collected from a single donor and processed either
4.2 for transfusion or further manufacturing.

4.3 (f) "Blood components" means that part of blood separated by physical or
4.4 mechanical means.

4.5 (g) "Reverse distribution" means the receipt of prescription or nonprescription drugs
4.6 received from or shipped to Minnesota locations for the purpose of returning the drugs
4.7 to their producers or distributors.

4.8 (h) "Reverse distributor" means a person engaged in the reverse distribution of drugs.

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.