

LEGISLATIVE BILL 350

Passed over the Governor's veto April 8, 1988.

Introduced by Lynch, 13

AN ACT relating to prescription drugs; to adopt the Mail Service Prescription Drug Act; and to provide severability.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Mail Service Prescription Drug Act.

Sec. 2. (1) No person operating outside of the State of Nebraska shall ship, mail, or in any manner deliver dispensed prescription drugs into the State of Nebraska unless such person:

(a) Is licensed as a pharmacist in the United States;

(b) Has filed with the Department of Health evidence of a pharmacy license or permit issued by, and valid in, the state in which the person is located and from which such prescription drugs will be shipped, mailed, or otherwise delivered;

(c) Is located and operating in a state in which the requirements and qualifications for obtaining and maintaining a pharmacy license or permit are considered by the Department of Health, with the approval of the Board of Examiners in Pharmacy, to be substantially equivalent to the requirements contained in sections 71-1,142 to 71-1,147.33; and

(d) Has designated the Secretary of State as his, her, or its agent for service of process in this state.

(2) This section shall not apply to prescription drugs mailed, shipped, or otherwise delivered by a pharmaceutical company to a laboratory for the purpose of conducting clinical research.

(3) For purposes of this section and section 3 of this act, prescription drugs shall have the definition found in section 71-1,142.

Sec. 3. The Department of Health, upon the recommendation of the Board of Examiners in Pharmacy, shall notify the Attorney General of any possible violations of the Mail Service Prescription Drug Act. If the Attorney General has reason to believe that an out-of-state person is operating in violation of the act, he or she shall commence an action in the district

court of Lancaster County to enjoin any such person from further mailing, shipping, or otherwise delivering prescription drugs into the State of Nebraska.

Sec. 4. The Department of Health shall, upon the recommendation of the Board of Examiners in Pharmacy, adopt and promulgate rules and regulations, including rules and regulations for enforcement, necessary to carry out the Mail Service Prescription Drug Act.

Sec. 5. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.