

[First Reprint]

SENATE, No. 2560

STATE OF NEW JERSEY
217th LEGISLATURE

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**Senator Gordon, Assemblymen Prieto, Lagana, Chiaravalloti, Benson,
Assemblywomen McKnight and Muoio**

SYNOPSIS

Authorizes establishment of drug donation programs.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 15, 2017, with amendments.

(Sponsorship Updated As Of: 12/8/2017)

1 AN ACT authorizing the establishment of drug donation programs,
2 and supplementing Title 24 ¹and Title 54¹ of the Revised
3 Statutes ¹and Title 54A of the New Jersey Statutes¹.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that the health of low-
9 income persons in the State can be improved, and the cost to the
10 State of providing health care to low-income persons can be
11 reduced, through the establishment of one or more programs that
12 provide for: the donation of unused over-the-counter drugs,
13 prescription drugs, and administration supplies, which would
14 otherwise be destroyed; and the redistribution of such unused drugs
15 and administration supplies to those persons who are most in need.

16
17 2. As used in ¹sections 1 through 7 of¹ this act:

18 “Administration supplies” means any supply associated with the
19 administration of prescription drugs, including, but not limited to,
20 diabetes test strips, nebulizers, syringes, and needles.

21 “Anti-rejection drug” means an over-the-counter drug or
22 prescription drug that suppresses the immune system to prevent or
23 reverse the rejection of a transplanted organ.

24 “Board” means the State Board of Pharmacy.

25 “Cancer drug” means a prescription drug that is used to treat
26 cancer or the side effects of cancer, or that is used to treat the side
27 effects of any other prescription drug that is used to treat cancer or
28 the side effects of cancer.

29 “Commissioner” means the Commissioner of Health.

30 ¹“Compounded drug” means a sterile or nonsterile compounded
31 formulation for dispensing or administration pursuant to a
32 prescription, that is prepared for a patient with needs that cannot be
33 met by a commercially available prescription drug.¹

34 “Controlled dangerous substance” means the same as that term is
35 defined by N.J.S.2C:35-2.

36 ¹“Correctional facility” means a county or state correctional
37 facility, county juvenile detention facility, secure juvenile facility,
38 federal prison, or other comparable facility.¹

39 “Donated drug” means an over-the-counter drug or prescription
40 drug that has been donated to a redistributor in accordance with the
41 provisions of this act.

42 “Donor” means a drug manufacturer, wholesaler, repackager,
43 ¹[or reverse distributor] returns processor¹, ¹[or a] third-party
44 logistics provider,¹ health care facility, correctional facility,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 15, 2017.

1 pharmacy, or any other person or entity that is properly licensed and
2 authorized to possess prescription drugs, and which elects to donate
3 over-the-counter drugs, prescription drugs, or administration
4 supplies pursuant to this act.

5 “Drug donation program” means a program, established pursuant
6 to the provisions of this act, which accepts the donation of unused
7 over-the-counter drugs, prescription drugs, and administration
8 supplies that would otherwise be destroyed, and which provides for
9 the redistribution of those unused drugs and administration supplies
10 to persons who are most in need.

11 ¹“Grooming and hygiene product” is soap or cleaning solution,
12 shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion
13 or screen, regardless of whether the item meets the definition of
14 “over-the-counter drug.”¹

15 “Health care facility” means a physician’s office; a hospital; an
16 outpatient clinic; a federally qualified health center; a federally
17 qualified health center look-alike; a rural health clinic; ¹[a
18 disproportionate share hospital]¹; a clinic that provides services
19 under the federal Ryan White HIV/AIDS Program; a mental health
20 center or clinic; ¹a Veterans Affairs hospital;¹ and any other health
21 care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
22 seq.), or a comparable facility licensed to operate within another
23 state.

24 “Indigent” means a person ¹[that] who¹ has an income that is
25 below 250 percent of the federal poverty level.

26 ¹“Out-of-State redistributor” means a health care facility,
27 pharmacy, wholesaler, returns processor, or other person or entity
28 that is properly licensed to operate in a state other than New Jersey,
29 and is authorized to dispense over-the-counter drugs and
30 prescription drugs, and which agrees to accept, repackaging, transfer
31 to other redistributors, and, if otherwise authorized by law, dispense
32 donated drugs and administration supplies to eligible individuals
33 pursuant to a prescription drug donation program established under
34 the laws of the state in which the person or entity is located.

35 “Over-the-counter-drug” means a drug that contains a label that
36 meets the requirements of 21 CFR 201.66, including (1) a “Drug
37 Facts” panel; or (2) a statement of the “active ingredient” or
38 “active ingredients” with a list of those ingredients contained in the
39 compound, substance, or preparation. “Over-the-counter drug” does
40 not include a grooming and hygiene product.¹

41 “Prescriber” means a licensed physician, physician assistant, or
42 advanced practice nurse, or any other person who is authorized by
43 the appropriate State professional and occupational licensing board
44 to prescribe drugs and devices as provided by law.

45 “Prescription drug” means any drug, intended for use in humans,
46 which is required by federal or State law or regulation to be
47 dispensed only pursuant to a prescription. “Prescription drug”

1 includes cancer drugs and anti-rejection drugs, but does not include
2 any controlled dangerous substance ¹or compounded drug¹.

3 “Redistributor” means a health care facility, pharmacy,
4 ¹wholesaler, returns processor,¹ or any other person or entity that is
5 properly licensed and authorized to dispense over-the-counter drugs
6 and prescription drugs, and which agrees to accept, repackage,
7 transfer ¹to other redistributors¹, and ¹if otherwise authorized by
8 law,¹ dispense donated drugs and administration supplies to eligible
9 individuals ¹], or to other redistributors,]¹ pursuant to this act.
10 ¹“Redistributor” includes an out-of-state redistributor.¹

11 ¹“Out-of-State redistributor” means a health care facility,
12 pharmacy, or other person or entity that is properly licensed to
13 operate in a state other than New Jersey, and is authorized to
14 dispense over-the-counter drugs and prescription drugs, and which
15 agrees to accept, repackage, transfer, and dispense donated drugs
16 and administration supplies to eligible individuals, or to other
17 redistributors, pursuant to a prescription drug donation program
18 established under the laws of the state in which the person or entity
19 is located.]¹

20 ¹“Returns processor” shall mean the same as that term is defined
21 by 21 U.S.C. s.360eee(18). “Returns processor” includes a
22 reversedistributor.¹

23 “Tamper-evident packaging” means a package or container that
24 has an immediate, outer, or secondary seal that must be broken in
25 order to gain access to the container’s contents. ¹“Tamper-evident
26 packaging” includes partially used single-unit dose or blister pack
27 and bottles or vials sealed in pouches or with tamper-evident tape.¹

28 “Third-party intermediary” means an organization that is not a
29 wholesaler or third-party logistics provider, and that facilitates the
30 donation or transfer of over-the-counter drugs, prescription drugs,
31 and administration supplies for a drug donation program established
32 pursuant to this act, but which does not take possession or
33 ownership of the drugs.

34 ¹“Transaction date” means the date at which ownership of the
35 drug was donated or transferred between two participants of the
36 program as established by contract or other arrangement. If no such
37 contract or arrangement exists, the transaction date shall be the date
38 the drug was accepted into inventory by the redistributor.¹

39

40 3. a. No later than six months after the enactment of this act,
41 the commissioner, in cooperation with the board, shall authorize
42 one or more private entities to establish and maintain a drug
43 donation program, pursuant to which a donor may donate over-the-
44 counter drugs, prescription drugs, and administration supplies to a
45 redistributor for final dispensing to an individual who meets the
46 eligibility criteria established by the entity for the purposes of its
47 program.

1 b. An entity that establishes a drug donation program pursuant
2 to this act may contract with a third-party intermediary to
3 implement and administer the program.

4 c. An entity that establishes a drug donation program pursuant
5 to this act shall develop, implement, and make available, upon
6 request of the commissioner, the board, or the public:

7 (1) standards and procedures for accepting, safely storing, and
8 dispensing donated drugs and administration supplies;

9 (2) standards and procedures for inspecting donated drugs to
10 ensure that the drugs are contained in sealed, tamper-evident
11 packaging, including, but not limited to, intact single-unit doses or
12 blister packs;

13 (3) standards and procedures for inspecting donated drugs to
14 ensure that the drugs are not adulterated or misbranded;

15 (4) eligibility criteria for individuals to receive donated drugs
16 and administration supplies dispensed under the program, which
17 criteria shall prioritize the dispensing of donated drugs and
18 administration supplies to individuals who are indigent, uninsured,
19 or enrolled in a public health benefits program, but may permit
20 dispensing to other individuals if a need for the donated drugs and
21 administration supplies is not identified among persons who are
22 indigent, uninsured, or enrolled in a public health benefits program;

23 (5) a means by which an individual may indicate ¹【their
24 eligibility】 that the individual is eligible¹ to receive donated drugs
25 and administration supplies under the program ¹, which may
26 comprise in part or whole of self-certification¹;

27 (6) a list of over-the-counter drugs and prescription drugs that
28 the program is seeking, will accept, and will not accept, including a
29 list of those drugs that an individual redistributor participating in
30 the program is seeking, will accept, and will not accept;

31 d. Donated over-the-counter drugs, prescription drugs, and
32 administration supplies may be transferred from one redistributor to
33 another redistributor in this State, and may be transferred to or from
34 a redistributor in another state, provided that such transfer is
35 permitted under the laws of that ¹other¹ state. The donation,
36 transfer, or facilitation of donations and transfers of over-the-
37 counter drugs or prescription drugs pursuant to this subsection shall
38 not be deemed to constitute wholesale distribution ¹and shall not
39 require licensing as a wholesaler¹.

40 e. (1) Any over-the-counter drugs ¹【and】 ¹prescription drugs
41 ¹, and administration supplies¹ that a donor legally possesses,
42 including, but not limited to, over-the-counter drugs ¹【and】 ¹
43 prescription drugs ¹, and administration supplies¹ that are
44 discontinued in a health care facility, and that would otherwise be
45 destroyed, are eligible for donation under this act.

46 (2) A prescription drug that can only be dispensed to a patient
47 who is registered with the manufacturer of that drug, in accordance

1 with requirements established by the federal Food and Drug
2 Administration, shall not be accepted or distributed by any drug
3 donation program.

4 f. A common carrier or contract carrier may be used to
5 transport donated over-the-counter drugs, prescription drugs, and
6 administration supplies, in accordance with manufacturer
7 recommendations, 'including but not limited to,' from a donor to a
8 redistributor, from a redistributor to another redistributor, 'from a
9 redistributor to a donor,' or from a redistributor to an eligible
10 patient.

11 g. The participation of any person, facility, or other entity in a
12 drug donation program established under this act shall be voluntary.

13

14 4. a. Donated drugs and administration supplies may be
15 accepted, transferred, and dispensed by a redistributor pursuant to
16 this act, provided that the following conditions are satisfied:

17 (1) the donated drugs '[are not expired, and]' are contained in a
18 sealed and tamper-evident package '[, including, but not limited to,
19 a single-unit dose or blister pack]' that remains intact;

20 (2) the donated drugs and administration supplies are dispensed
21 to an eligible individual by a pharmacist or other health care
22 professional who is authorized by law to dispense over-the-counter
23 drugs and prescription drugs;

24 (3) the dispensing pharmacist or other health care professional
25 determines, prior to dispensing a donated drug, that the donated
26 drug is not adulterated or misbranded; '[and]'

27 (4) the dispensing pharmacist or other health care professional
28 dispenses any donated prescription drugs or prescription
29 administration supplies to eligible individuals only pursuant to a
30 valid prescription ¹;

31 (5) the dispensed drugs and administration supplies are in a new
32 container or have had all previous patient information on the
33 donated container redacted or removed;

34 (6) the dispensed drugs and administration supplies are properly
35 labeled in accordance with the regulations of the board;

36 (7) the dispensed drugs and administration supplies have an
37 expiration or beyond use date brought forward from the donated
38 drug that will not expire before the use by the patient based on the
39 prescribing practitioner's directions for use or, for over-the-counter
40 drugs, on the package's label; and

41 (8) an out-of-state redistributor complies with all laws and rules
42 in this State unless such laws or rules differ or conflict with the
43 laws or rules of the state in which the redistributor is located¹ .

44 b. A redistributor may accept over-the-counter drugs,
45 prescription drugs, and administration supplies from a donor located
46 in another state, provided that the transfer is permitted under the
47 laws of that other state.

1 c. ¹(1)¹ A redistributor may repackage donated over-the-
2 counter drugs, prescription drugs, or administration supplies before
3 transferring, storing, or dispensing the donated drugs or
4 administration supplies to an eligible individual, or before
5 transferring the donated drugs or administration supplies to another
6 redistributor.

7 ¹(2) Repackaged drugs shall be labeled with the drug name,
8 strength, and expiration date, and shall be kept in a separate
9 designated area until inspected and initialed by a pharmacist or
10 other health care professional.

11 (3) If multiple packaged donated drugs with varied expiration
12 dates are repackaged together, the shortest expiration date shall be
13 used.¹

14 d. Donated drugs and administration supplies shall be
15 segregated from other drug stocks, by either physical or electronic
16 means.

17 e. (1) A redistributor's receipt of reimbursement or payment
18 from another redistributor, a governmental agency, a pharmacy
19 benefit manager, a pharmacy services administration organization,
20 or a health care coverage program under this section¹, including a
21 usual and customary charge.¹ shall not be deemed to constitute the
22 resale of prescription drugs for the purposes of this act, or for the
23 purposes of any other law or regulation.

24 (2) A redistributor may ¹also¹ charge a handling fee to an
25 eligible individual who is dispensed a donated drug pursuant to this
26 act, provided that ¹, if the redistributor is for-profit,¹ the fee does
27 not exceed the reasonable costs of procuring, transporting,
28 inspecting, repackaging, storing, and dispensing the donated drug.
29 ¹**【The】** ¹A¹ redistributor ¹that charges a handling fee pursuant to this
30 paragraph¹ shall maintain a record validating the charge, and shall
31 make that record available to the department ¹**【,】**¹ upon request.

32 f. (1) If a donor receives notice from a pharmacy or
33 pharmaceutical manufacturer regarding the recall of a donated over-
34 the-counter drug or prescription drug, or of donated administration
35 supplies, the donor shall provide notice of the recall to the
36 redistributor who received the recalled over-the-counter drug,
37 prescription drug, or administration supplies, unless the
38 redistributor has provided the donor with a written statement
39 attesting that the redistributor receives recall notices for all
40 transferred and dispensed drugs through other means.

41 (2) If a redistributor receives notice of a recall pursuant to
42 paragraph (1) of this subsection, the redistributor shall provide
43 notice of the recall to any other redistributor to whom it has
44 transferred the recalled over-the-counter drugs, prescription drugs,
45 or administration supplies, unless the ¹**【secondary】** subsequent¹
46 redistributor has provided the ¹**【primary】** previous¹ redistributor
47 with a written statement attesting that the ¹**【secondary】** subsequent¹

1 redistributor receives recall notices for all transferred and dispensed
2 drugs through other means.

3 (3) Any redistributor who receives a notice of recall shall
4 perform a uniform destruction of all of the recalled over-the-counter
5 drugs, prescription drugs, or administration supplies in its
6 possession.

7 ¹g. Prior to the first donation from a new donor, a redistributor
8 shall verify and record the following as a donor record, and no other
9 donor information shall be required:

10 (1) the donor meets the definition of donor under this act;

11 (2) the donor's name, address, phone number, and license
12 number, if applicable;

13 (3) certification that the donor will not donate any controlled
14 dangerous substances; and

15 (4) certification that, if applicable, the donor will remove or
16 redact any patient names and prescription numbers on donated
17 drugs or otherwise maintain patient confidentiality by executing a
18 confidentiality agreement with the redistributor.

19 h. A drug manufacturer, repackager, pharmacy, or wholesaler
20 other than a returns processor participating in this program shall
21 comply with the requirements of 21 U.S.C. ss. 360eee-1 through
22 360eee-4 relating to drug supply chain security.

23 i. Donated drugs and administration supplies not accepted by the
24 redistributor shall be disposed by returning the drugs or supplies to
25 the donor, destroying the drugs or supplies by an incinerator or
26 other lawful method, or transferring it to a returns processor. A
27 record of disposed drugs and administration supplies shall consist
28 of the disposal method as described above, the date of disposal, and
29 the name, strength, and quantity of each drug disposed and the
30 name and quantity of any administration supplies disposed. No
31 other record of disposal shall be required.

32 j. All donated drugs and administration supplies received but not
33 yet accepted into inventory shall be kept in a separate designated
34 area. Prior to or upon accepting a donation or transfer into
35 inventory, a redistributor shall maintain a written or electronic
36 inventory of the donation, consisting of the transaction date, the
37 name, strength, and quantity of each accepted drug and the name
38 and quantity of any accepted administration supplies, and the name,
39 address, and phone number of the donor. This record shall not be
40 required if the two parties are under common ownership or common
41 control. No other record of donation shall be required.

42 k. An authorized recipient shall store and maintain donated
43 drugs physically or electronically separated from other inventory
44 and in a secure and temperature controlled environment that meets
45 the drug manufacturers' recommendations and United States
46 Pharmacopeial Convention (USP) standards.

47 l. All records required under this act shall be retained in physical
48 or electronic format, on or off the redistributor's premises for a

1 period of six years. A donor or redistributor may contract with one
2 another or a third-party entity to create or maintain records on each
3 other's behalf. An identifier, such as a serial number or barcode,
4 may be used in place of information required by a record or label
5 under this act if it allows for such information to be readily
6 retrievable. An identifier shall not be used on patient labels when
7 dispensing or administering a drug.

8 m. If a record of the transaction information or history of a
9 donation is required, the history shall begin with the acceptance of
10 the drugs, shall include all prior donations, and, if the drug was
11 previously dispensed, shall only include drug information required
12 to be on the patient label in accordance with board rules and
13 regulations.¹

14
15 ¹**[5.** A donor shall be allowed a credit against the tax that would
16 otherwise be due under the "New Jersey Gross Income Tax Act,"
17 P.L.1976, c.47 (C.54A:1-1 et seq.), for the taxable year in which a
18 donation was made pursuant to this act, in an amount equal to the
19 cost of any over-the-counter drugs, prescription drugs, and
20 administration supplies that were donated during the taxable year,
21 provided that:

22 a. the donor paid for, owned, or was responsible for, the over-
23 the-counter drugs, prescription drugs, or administration supplies;
24 and

25 b. the over-the-counter drugs, prescription drugs, or
26 administration supplies were donated to, and accepted by, a
27 redistributor in accordance with the provisions of this act.]¹

28
29 ¹**[6.]** ¹5. ¹a. Any donor, redistributor, third-party intermediary,
30 common carrier, contract carrier, governmental agency ¹, including
31 but not limited to the Department of Health and the board¹,
32 pharmacy benefit manager, pharmacy services administration
33 organization, health care coverage program, or other ¹**[person or]**¹
34 entity ¹or person, including but not limited to volunteers,
35 employees, officers, directors, owners, partners, managers, and
36 members,¹ who acts reasonably and in good faith, within the scope
37 of a drug donation program, and in accordance with the provisions
38 of this act, shall be: (1) immune from civil or criminal liability for
39 any injury, death, or loss suffered by a person who is dispensed a
40 donated drug ¹**[.]**¹ or donated administration supplies under this act;
41 and (2) exempt from any professional disciplinary action stemming
42 from any act or omission associated with ¹any activity pursuant to
43 this act, including but not limited to,¹ the donation, acceptance,
44 ¹repackaging, transportation,¹ transfer, or dispensing of a donated
45 drug or donated administration supplies ¹**[pursuant to this act]**¹.

46 b. A drug manufacturer ¹**[or]** ¹, wholesaler ¹, or other entity
47 participating in the supply chain of the donated drug or donated

1 administration supplies¹ who acts reasonably and in good faith, in
2 accordance with the provisions of this act, and as otherwise
3 required by law, shall be immune from civil or criminal liability for
4 any injury, death, or loss to a person or property stemming from any
5 act or omission in association with 'any activity pursuant to this act
6 including but not limited to¹ the donation, acceptance,
7 'repackaging,¹ transportation, 'transfer,¹ or dispensing of an over-
8 the-counter drug or prescription drug that is manufactured or
9 distributed by the drug manufacturer '[or] ,'¹ wholesaler ' , or other
10 entity¹ and donated pursuant to this act, including any liability
11 resulting from a failure to transfer or communicate product or
12 consumer information or the expiration date of the donated drug.

13 c. A redistributor who dispenses donated drugs or
14 administration supplies that have been recalled shall be immune
15 from civil or criminal liability for any injury, death or loss suffered
16 by a person who is dispensed those drugs or administration
17 supplies, provided that the redistributor was not notified of the
18 recall by the donor, by another redistributor, or through other
19 means, as provided in subsection '[g] f'¹ of section 4 of this act.

20

21 '[7.] 6.'¹ The provisions of this act shall not be construed to
22 restrict the use of drug samples by a health care professional who is
23 licensed to prescribe drugs and devices during the course of the
24 professional's duties at a health care facility or pharmacy.

25

26 '[8.] 7.'¹ Not later than six months after the date of enactment
27 of this act, the commissioner, in consultation with the board 'and
28 the Director of the Division of Taxation in the Department of the
29 Treasury¹, shall adopt rules and regulations, pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), as may be necessary to effectuate the purposes of this act.

32

33 '8. a. For privilege periods beginning on or after the effective
34 date of P.L. , c. (C.) (pending before the Legislature as this
35 bill), a taxpayer that is a donor shall be allowed a credit against the
36 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
37 in an amount equal to the sum of: the cost to the taxpayer of the
38 over-the-counter drugs, prescription drugs, and administration
39 supplies as determined pursuant to 26 U.S.C. s.170(e)(3)(A); and
40 the verifiable cost to the taxpayer to make the donation of the over-
41 the-counter drugs, prescription drugs, and administration supplies to
42 a redistributor during the taxable year in accordance with a drug
43 donation program established pursuant to the provisions of P.L. ,
44 c. (C.) (pending before the Legislature as this bill), provided
45 that:

46 (1) the donor paid for, owned, or was responsible for the over-
47 the-counter drugs, prescription drugs, or administration supplies;

1 (2) the over-the-counter drugs, prescription drugs, or
2 administration supplies were donated to, and accepted by, a
3 redistributor in accordance with the provisions of P.L. ,
4 c. (C.) (pending before the Legislature as this bill); and

5 (3) the redistributor, which processed the donated drug, complies
6 with all recordkeeping requirements for nonsaleable returns to a
7 returns processor under federal law.

8 b. The order of priority of the application of the credit allowed
9 pursuant to this section and any other credits allowed by law shall
10 be as prescribed by the director. The amount of the credit applied
11 under this section against the corporation business tax liability of
12 the taxpayer for a privilege period, together with any other credits
13 allowed by law, shall not exceed 50 percent of the tax liability
14 otherwise due and shall not reduce the tax liability to an amount
15 less than the statutory minimum provided in subsection (e) of
16 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the
17 credit allowable under this section which cannot be used to reduce
18 the taxpayer's corporation business tax liability for the privilege
19 period due to the limitations of this section may be carried forward
20 and applied to the earliest available use within the 20 privilege
21 periods immediately following the privilege period for which the
22 credit is allowed. The costs of the over-the-counter drugs,
23 prescription drugs, and administration supplies, and the costs to
24 make the donation to a redistributor, that are included in the
25 calculation of the credit allowed pursuant to this section shall not be
26 allowed as an amount calculated or claimed pursuant to any other
27 deduction or credit allowed under the corporation business tax.

28 c. As used in this section: "donor," "over-the-counter drugs,"
29 "prescription drugs," "administration supplies," "redistributor,"
30 "returns processor," and "drug donation program" shall mean the
31 same as those terms are defined by section 2 of P.L. , c. (C.)
32 (pending before the Legislature as this bill).¹

33
34 ^{19.} a. For taxable years beginning on or after the effective date
35 of P.L. , c. (C.) (pending before the Legislature as this bill),
36 a taxpayer that is a donor shall be allowed a credit against the tax
37 otherwise due under the "New Jersey Gross Income Tax Act,"
38 N.J.S.54A:1-1 et seq., in an amount equal to the sum of: the cost to
39 the taxpayer of the over-the-counter drugs, prescription drugs, and
40 administration supplies as determined pursuant to 26 U.S.C.
41 s.170(e)(3)(A); and the verifiable cost to the taxpayer to make the
42 donation of the over-the-counter drugs, prescription drugs, and
43 administration supplies to a redistributor during the taxable year in
44 accordance with a drug donation program established pursuant to
45 the provisions of P.L. , c. (C.) (pending before the
46 Legislature as this bill), provided that:

47 (1) the donor paid for, owned, or was responsible for the over-
48 the-counter drugs, prescription drugs, or administration supplies;

1 (2) the over-the-counter drugs, prescription drugs, or
2 administration supplies were donated to, and accepted by, a
3 redistributor in accordance with the provisions of P.L. _____,
4 c. (C. _____) (pending before the Legislature as this bill); and

5 (3) the redistributor, which processed the donated drug, complies
6 with all recordkeeping requirements for nonsaleable returns to a
7 returns processor under federal law.

8 b. (1) The order of priority of the application of the credit
9 allowed pursuant to this section and any other credits allowed by
10 law shall be as prescribed by the director. The amount of the credit
11 applied under this section against the gross income tax liability of
12 the taxpayer for a taxable year, together with any other credits
13 allowed by law, shall not exceed 50 percent of the tax liability
14 otherwise due. The amount of the credit allowable under this
15 section which cannot be used to reduce the taxpayer's gross income
16 tax liability for the taxable year due to the limitations of this section
17 may be carried forward and applied to the earliest available use
18 within the 20 taxable years immediately following the taxable year
19 for which the credit is allowed. The costs of the over-the-counter
20 drugs, prescription drugs, and administration supplies, and the costs
21 incurred in making the donation to a redistributor, that are included
22 in the calculation of the credit allowed pursuant to this section shall
23 not be allowed as an amount calculated or claimed pursuant to any
24 other deduction or credit allowed under the gross income tax.

25 (2) A business entity that is classified as a partnership for
26 federal income tax purposes shall not be allowed a credit directly
27 under the gross income tax, but the amount of credit of a taxpayer
28 in respect of a distributive share of partnership income shall be
29 determined by allocating to the taxpayer that proportion of the
30 credit acquired by the partnership that is equal to the taxpayer's
31 share, whether or not distributed, of the total distributive income or
32 gain of the partnership for its taxable year ending within or with the
33 taxpayer's taxable year. A New Jersey S corporation shall not be
34 allowed a credit directly under the gross income tax, but the amount
35 of credit of a taxpayer in respect of a pro rata share of S
36 Corporation income shall be determined by allocating to the
37 taxpayer that proportion of the credit acquired by the New Jersey S
38 Corporation that is equal to the taxpayer's share, whether or not
39 distributed, of the total pro rata share of S Corporation income of
40 the New Jersey S Corporation for its privilege period ending within
41 or with the taxpayer's taxable year.

42 c. As used in this section: "donor," "over-the-counter drugs,"
43 "prescription drugs," "administration supplies," "redistributor,"
44 "returns processor," and "drug donation program" shall mean the
45 same as those terms are defined by section 2 of P.L. _____, c. (C. _____)
46 (pending before the Legislature as this bill).¹

1 ¹~~【9.】~~ 10.¹ This act shall take effect on the 180th day next
2 following the date of enactment, except that the Commissioner of
3 Health ¹~~【and】~~ ¹ the Director of the State Board of Pharmacy ¹, and
4 the Director of the Division of Taxation in the Department of the
5 Treasury¹ may take such anticipatory administrative action in
6 advance thereof as shall be necessary for the implementation of this
7 act.