

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 449

S.P. 181

In Senate, February 14, 2013

**An Act To Ensure Consumer Choice in the Purchase of Prescription  
Drugs**

(EMERGENCY)

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator THOMAS of Somerset.  
Cosponsored by Representatives: BENNETT of Kennebunk, STUCKEY of Portland,  
Representative DAVIS of Sangerville and  
Senators: MASON of Androscoggin, THIBODEAU of Waldo, WHITTEMORE of Somerset,  
Representatives: CROCKETT of Bethel, HAYES of Buckfield, KNIGHT of Livermore Falls,  
STANLEY of Medway, VEROW of Brewer.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** there is ambiguity regarding the ability of Maine consumers to purchase  
4 mail order prescription medications from licensed pharmacies located outside the United  
5 States; and

6           **Whereas,** it is critically important to resolve any such ambiguities as soon as  
7 possible; and

8           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
9 the meaning of the Constitution of Maine and require the following legislation as  
10 immediately necessary for the preservation of the public peace, health and safety; now,  
11 therefore,

12 **Be it enacted by the People of the State of Maine as follows:**

13           **Sec. 1. 32 MRSA §13702-A, sub-§28,** as amended by PL 2011, c. 577, §1, is  
14 further amended to read:

15           **28. Practice of pharmacy.** "Practice of pharmacy" means the interpretation and  
16 evaluation of prescription drug orders; the compounding, dispensing and labeling of  
17 drugs and devices, except labeling by a manufacturer, packer or distributor of  
18 nonprescription drugs and commercially packaged legend drugs and devices; the  
19 participation in drug selection and drug utilization reviews; the proper and safe storage of  
20 drugs and devices and the maintenance of proper records for these drugs and devices; the  
21 administration of vaccines licensed by the United States Food and Drug Administration  
22 that are recommended by the United States Centers for Disease Control and Prevention  
23 Advisory Committee on Immunization Practices, or successor organization, for  
24 administration to adults; the responsibility for advising, when necessary or regulated, of  
25 therapeutic values, content, hazards and use of drugs and devices; and the offering or  
26 performing of those acts, services, operations or transactions necessary in the conduct,  
27 operation, management and control of a pharmacy. The dispensing of drugs for personal  
28 use to an individual resident of the State from a mail order prescription pharmacy located  
29 and licensed in a nation referenced in 21 United States Code, Section 382(b)(1) (2012)  
30 does not constitute the practice of pharmacy.

31           **Sec. 2. 32 MRSA §13799** is enacted to read:

32 **§13799. Consumer choice preserved**

33           Nothing in this chapter may be construed to prohibit:

34           **1. Ordering drugs.** Any individual who is a resident of the State from ordering  
35 drugs for personal use from a mail order prescription pharmacy located and licensed in a  
36 nation referenced in 21 United States Code, Section 382(b)(1) (2012); or

37           **2. Dispensing drugs.** A mail order prescription pharmacy located and licensed in a  
38 nation referenced in 21 United States Code, Section 382(b)(1) (2012) from dispensing

1 prescription drugs from outside the United States by mail or carrier to an individual who  
2 is a resident of the State for that individual's personal use.

3 **Emergency clause.** In view of the emergency cited in the preamble, this  
4 legislation takes effect when approved.

5 **SUMMARY**

6 This bill clarifies and affirms the ability of Maine consumers to purchase mail order  
7 prescription drugs from licensed pharmacies that are located in certain nations specified  
8 under federal law.