S-1187.3

# SUBSTITUTE SENATE BILL 5234

**State of Washington 62nd Legislature 2011 Regular Session**

**By** Senate Health & Long-Term Care (originally sponsored by Senators Kline, Swecker, Keiser, Rockefeller, Shin, Conway, Pridemore, Ranker, Pflug, Nelson, Chase, Kohl-Welles, Haugen, White, Regala, Murray, and Fraser)

READ FIRST TIME 02/08/11.

AN ACT Relating to providing safe collection and disposal of unwanted drugs from residential sources through a producer-provided and funded product stewardship program; amending RCW 69.41.030, 18.64.005, and 42.56.270; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** The legislature finds that Washington state citizens benefit from the authorized use of prescription and over-the-counter medicines. The proper use of medicines helps to cure, treat, and prevent diseases, and to prolong life. Failure to properly dispose of leftover and expired medicines can lead to the illegal possession and abuse of potentially addictive medicines by others, and to the consumption of medicines by children and others, potentially causing addiction, poisonings, overdoses, and other harmful health effects. Moreover, disposing of medicines by flushing them down the toilet or placing them in the garbage can lead to the contamination of groundwater and other bodies of water, contributing to long-term harm to the environment and to animal life. The legislature finds that Washington residents need a safe method for disposal of medicines

through "take-back" programs that provide environmentally sound disposal of medicines with effective controls against diversion. The legislature intends that the costs of properly collecting and disposing of leftover and expired medicines be included in the producer's business costs, and further finds that the producers of the medicines are best positioned to efficiently develop and operate programs for the safe and convenient collection and disposal of unused medicines.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Corporation" means the medicine return corporation established in section 3 of this act.

(2)(a) "Covered drug" includes all legend and nonlegend drugs from residential sources sold in any form. This includes brand name and generic drugs.

(b) "Covered drug" does not include:

(i) Vitamins or supplement;

(ii) Herbal-based remedies and homeopathic drugs, products, or remedies;

(iii) Cosmetics, shampoos, sunscreens, toothpaste, lip balm, antiperspirants, or other personal care products that are regulated as both cosmetics and nonlegend drugs under the federal food, drug, and cosmetic act;

(iv) Drugs for which producers provide a take-back program as part of a federal food and drug administration managed risk evaluation and mitigation strategy (21 U.S.C. Sec. 355-1);

(v) Drugs that are biological products as defined by 21 C.F.R. 600.3(h) as it exists on the effective date of this section if the producer already provides a take-back program; and

(vi) Pet pesticide products contained in pet collars, powders, shampoos, topical applications, or other forms.

(3) "Drug wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(4) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia, the official national formulary, the official

homeopathic pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including medical devices or their component parts or accessories.

(5) "Generic drug" means drugs that are chemically identical or bioequivalent to a brand name drug in dosage form, safety, strength, route of administration, quality, performance characteristics, and intended use. However, inactive ingredients may vary.

(6) "Legend drug" means any drugs, including controlled substances under chapter 69.50 RCW, that are required by any applicable federal or state law or regulation to be dispensed by prescription only or are restricted to use by practitioners only.

(7) "Nonlegend drug" means any drugs that may be lawfully sold without a prescription.

(8) "Person" means a firm, sole proprietorship, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, cooperative, or other entity of any kind or nature.

(9) "Producer" means the person who:

(a) Has legal ownership of the brand, brand name, or cobrand of the covered drug or manufactures a generic covered drug sold in Washington state. "Producer" does not include a retailer who puts its store label on a covered drug or a pharmacist who compounds a prescribed individual drug product for a patient;

(b) Imports a covered drug branded or manufactured by a producer that meets the definition under (a) of this subsection and has no physical presence in the United States; or

(c) Sells at wholesale a covered drug, does not have legal ownership of the brand, and elects to fulfill the responsibilities of the producer for that covered drug.

(10) "Product stewardship program" means a statewide program for the collection, transportation, and disposal of unwanted covered drugs

that is financed by the producers of those products and managed by the corporation.

(11) "Residential sources" includes single and multiple-family residences, and locations where household drugs are unused, unwanted, disposed, or abandoned, such as hospice services, boarding homes, schools, foster care, day care, and other locations where either people or their pet animals, or both, reside on a temporary or permanent basis. This does not include waste from hospitals, clinics, pharmacies, airport security, drug seizures by law enforcement, businesses, or other nonresidential or business sources identified by the board of pharmacy.

(12) "Unwanted covered drug" means any covered drug no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

NEW SECTION. **Sec. 3.** (1) The medicine return corporation is established as a nonprofit product stewardship organization to finance and operate a product stewardship program for the collection, transportation, and disposal of unwanted covered drugs. Membership in the corporation must be open to all producers of covered drugs sold in the state and all producers of covered drugs sold in the state must participate in the corporation's product stewardship program.

(2)(a) The corporation must be incorporated as a nonprofit corporation under chapter 24.06 RCW. In its articles of incorporation, the corporation must list as its purpose to devise and administer a producer-funded product stewardship program to provide for the collection, transportation, and disposal of unwanted covered drugs in conjunction with the board of pharmacy and pursuant to chapter 70.--- RCW (the new chapter created in section 22 of this act).

(b) The corporation's articles of incorporation must be filed with the secretary of state within sixty days of the effective date of this section.

(3) The corporation is managed by a board of directors, initially appointed by the secretary of the department of health. The board of directors is to be composed of representatives of producers whose covered drugs are sold in or into the state. Any producer of covered drugs, or representative of the producers, may submit recommendations

for members of the board of directors to the secretary of the department of health.

(a) The board of directors must include, at a minimum, representatives of:

(i) Two branded legend drugmakers;

(ii) Two generic legend drugmakers;

(iii) Two nonlegend drugmakers; and

(iv) Two biotechnology sector drugmakers.

(b) Additionally, four members of the legislature shall serve on the board as ex officio, nonvoting members, to be appointed as follows:

(i) One member from each of the two major caucuses in the senate, appointed by the president of the senate; and

(ii) One member from each of the two major caucuses in the house of representatives, appointed by the speaker of the house of representatives.

(4) The board of directors of the corporation shall:

(a) Prepare and adopt articles of incorporation and bylaws, and select a chair;

(b) Prepare and adopt a general plan of operation of procedures for the corporation. The plan of operation must include procedures for assessing costs and collecting funds from participating producers under section 6 of this act. The plan of operation must include a dispute mechanism through which a producer selling covered drugs in the state may challenge an assessment determination by the board of directors, and a mechanism by which the corporation may notify a producer selling covered drugs in the state that is failing to participate in the corporation and report such a producer to the board of pharmacy;

(c) By January 1, 2013, submit a proposed product stewardship program to the board of pharmacy for review in accordance with section 4 of this act; the product stewardship program must be approved and licensed by the board of pharmacy prior to collecting unwanted covered drugs;

(d) By January 1, 2014, operate a product stewardship program in accordance with this act;

(e) Enter into contracts and agreements with other service providers and entities as necessary, useful, or convenient to provide all or portions of the product stewardship program;

(f) Take any legal action necessary or proper for the recovery of an assessment for, on behalf of, or against members of the corporation or other participating persons; and

(g) Perform any other functions as may be necessary or proper to provide the product stewardship program and to affect any or all of the purposes for which the corporation is organized.

(5) The members of the board of directors, including ex officio, nonvoting members, serve without compensation but are entitled to reimbursement, solely from the funds of the corporation, for expenses incurred in the discharge of their duties under this chapter. However, no reimbursement may be provided for meals or travel expenses.

(6) The corporation shall provide the product stewardship program described in this chapter without using state or local government funds.

(7) The board of pharmacy may audit the activities of the corporation as necessary. The board of pharmacy, department of ecology, or department of health staff may access any facilities or property of the corporation as necessary to conduct inspections or investigate complaints.

NEW SECTION. **Sec. 4.** (1)(a) Meetings of the corporation are subject to the open public meetings act, chapter 42.30 RCW, and must be open and public and all persons must be permitted to attend any meeting of the corporation. The corporation may hold executive sessions in accordance with RCW 42.30.110 and as needed to protect producer-provided information exempt from the public records act under RCW 42.56.270(21), to evaluate the qualifications of an applicant for employment, and to review contracts or services of service providers.

(b) Except as provided in RCW 42.56.270, records of the corporation are subject to the public records act, chapter 42.56 RCW.

(2) In developing a proposed product stewardship program, the corporation must provide opportunities for public comment, including at least one public hearing. Notice of the public hearing must be provided by the corporation to the department of health, the board of pharmacy, the department of ecology, the Washington association of sheriffs and police chiefs, covered drug retailers, substance abuse professionals, local governments, solid waste professionals, water quality professionals, and the general public.

(3) After public comment has been received and by January 1, 2013, the corporation's proposed product stewardship program must be submitted to the board of pharmacy for review. The board of pharmacy shall consult with the department of ecology on any element of the proposed program including transportation and disposal systems, secure tracking and handling, package recycling, and public education. The board of pharmacy must consult with the Washington association of sheriffs and police chiefs on the adequacy of the proposed program's security measures for collection, transportation, and disposal of unwanted covered drugs.

(4) After the review and consultation under subsection (3) of this section and within ninety days after receipt of the proposed product stewardship program, the board of pharmacy must either approve or reject the corporation's proposed product stewardship program and, if rejected, provide reasons for rejection. If the program is rejected, the corporation must:

(a) Submit a revised product stewardship program within sixty days after receiving notice of the rejection; or

(b) Appeal the board of pharmacy's decision under the administrative procedure act, chapter 34.05 RCW, within sixty days after receiving notice of the rejection.

(5) The corporation shall annually invite comments from health care facilities, health care practitioners, pharmacists, local governments, law enforcement personnel, and citizens on their satisfaction with the services provided by the product stewardship program. This information must be used by the corporation in developing proposed product stewardship program updates and revisions. This information must also be provided to the board of pharmacy and must be used by the board of pharmacy in reviewing proposed program updates and revisions.

(6) At least every four years, the corporation must update its product stewardship program and submit the updated program to the board of pharmacy for review using the process described in subsections (3) and (4) of this section.

NEW SECTION. **Sec. 5.** The corporation's product stewardship program, which must be developed and reviewed according to section 4 of this act, must provide the following:

(1) A description of the proposed collection system. The collection system for all unwanted covered drugs must be safe, secure, and protect patient information. The collection system must be convenient and adequately serve the needs of residents in both urban and rural areas. The collection system must provide, at a minimum, one drop-off collection site in all counties in the state and one drop-off collection site in all cities with a population greater than ten thousand, on an ongoing, year-round basis. However, if a drop-off location cannot be arranged in a specific county or city, prepaid mailing envelopes must be provided;

(2) In accordance with requirements stated in sections 6(6) and 7 of this act, the collection system shall incorporate drop-off collection sites for unwanted covered drugs in existence on the effective date of this section if they meet program requirements, and additional collectors to improve convenience and availability of services;

(3) A description of the handling and disposal system, including identification of and contact information for collectors, transporters, and waste disposal facilities in accordance with section 11 of this act to be used by the product stewardship program;

(4) A description of how the corporation will use existing providers of waste pharmaceutical services to the extent possible and in accordance with section 11 of this act;

(5) A description of how covered drugs will be separated from packaging to the extent possible to reduce transportation and disposal costs and how drug packaging will be recycled to the extent feasible;

(6) The policies and procedures to be followed by persons in charge of unwanted covered drugs collected pursuant to the product stewardship program;

(7) A description of how the collected, unwanted covered drugs are tracked through to final disposal and how safety and security is maintained;

(8) A description of how patient information on drug packaging will be kept secure during collection, transportation, and disposal;

(9) A description of the public education effort and communications strategy required in section 10 of this act; and

(10) Contact information for all drug producers participating in the corporation.

NEW SECTION. **Sec. 6.** (1) The corporation shall pay all administrative and operational costs related to the product stewardship program. Corporation costs must be financed by producers who sell covered drugs in this state. The corporation's board of directors shall determine a method for equitably apportioning costs among producers whose covered drugs are sold in or into this state, and determine the method and timing of assessment collection. Each producer selling covered drugs in this state must be assessed and is required to timely remit payment to the corporation for its share of the corporation's total costs. Moneys remitted to the corporation under this section must be retained by the corporation and used solely for the administration and operation of the product stewardship program. Administrative and operational costs related to the product stewardship program include the following:

(a) Secure collection containers for the required minimum number of collection sites described in section 5(1) of this act;

(b) Collection and transportation supplies for the required minimum number of collection sites described in section 5(1) of this act;

(c) Mailers and mailings if a mail-back system is developed;

(d) Transportation of all collected pharmaceuticals to final disposal, including costs of law enforcement escort if necessary;

(e) Environmentally sound disposal of all collected pharmaceuticals under section 11 of this act;

(f) Program promotion under section 10 of this act;

(g) State agency and board of pharmacy oversight to administer and enforce this chapter under subsection (7) of this section; and

(h) Reasonable costs for administration of the corporation, as determined necessary by the corporation's board of directors.

(2) The corporation must submit its method for equitably apportioning costs among producers and the method and timing of assessment collection developed under subsection (1) of this section to the board of pharmacy for its review or rejection. If rejected, the corporation must:

(a) Submit revised methods within sixty days after receiving notice of the rejection; or

(b) Appeal the board of pharmacy's decision under the administrative procedure act, chapter 34.05 RCW, within sixty days after receiving notice of the rejection.

(3) The corporation may, subject to board of pharmacy approval, adjust the apportionment of costs under subsection (2) of this section annually.

(4) The corporation's board of directors may offer incentives or payments to collectors if necessary to ensure the product stewardship program requirements for the minimum number of collection sites are met, as described in section 5(1) of this act.

(5) Producers may not impose a visible fee on consumers when covered drugs are purchased or returned.

(6) The total annual cost responsibility to the corporation, notwithstanding any penalties or fines, may not exceed two million five hundred thousand dollars per calendar year. This number must be annually adjusted for inflation starting in 2012. The corporation shall report actual annual expenditures and may comment on this limit to the corporation's total annual cost responsibility in their annual report to the board of pharmacy under section 9 of this act.

(7) The secretary of the department of health may establish fees for administering this chapter as provided under RCW 43.70.250. The fees may be charged to the corporation. The fees must be based on factors relating to administering this chapter. Fees may be established in amounts to fully recover expenses incurred by the board of pharmacy, but must not exceed fifteen percent of the total annual cost responsibility to the corporation under subsection (6) of this section. The board of pharmacy may use these fee revenues to reimburse the department of ecology for its costs. The board of pharmacy may prioritize the work to implement this chapter if fees are not adequate to fund all costs of administration. Fees paid under this subsection must be deposited into the pharmaceutical product stewardship program account under section 16 of this act.

(8) Any producer may appeal an assessment of charges or apportionment of costs to the board of pharmacy under the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 7.** This chapter does not require any person to serve as a collector in the product stewardship program. A person may offer to serve as a collector, or may agree to serve as a collector in exchange for incentives or payment offered by the corporation's board of directors. Collectors may include law enforcement, pharmacies,

other relevant public or private locations, such as hospitals, senior centers, community health clinics, fire stations, veterinary clinics, or private sector collectors, and mail-back services, operating in accordance with state and federal laws and regulations for the handling of covered drugs and in compliance with this chapter.

NEW SECTION. **Sec. 8.** (1) Any proposed change to the product stewardship program must have prior approval of the board of pharmacy.

(2) The product stewardship program must inform the board of pharmacy of changes in collection locations in the product stewardship program fifteen days before the changes occur.

NEW SECTION. **Sec. 9.** (1) By June 30, 2015, and annually thereafter, the corporation must submit a report to the board of pharmacy describing the program's activities during the previous reporting period. The report must include the following:

(a) A list of producers participating in the product stewardship program;

(b) The amount, by weight, of unwanted covered drugs collected, including the amount by weight from each collection method used;

(c) A list of collection sites, if applicable, locations where mailers are provided, if applicable, transporters used, and the disposal facility or facilities used;

(d) Whether any safety or security problems occurred during collection, transportation, or disposal of unwanted covered drugs during the reporting period and, if so, what changes have or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security in the future;

(e) A description of the public education and outreach activities in compliance with section 10 of this act implemented during the reporting period;

(f) A description of how collected packaging was recycled to the extent feasible, including the recycling facility or facilities used; and

(g) The total expenditure of the corporation during the reporting period, and whether the corporation foresees a need for adjustment of the total annual cost responsibility under section 6(6) of this act as a result of changes in volumes of collected drugs or other costs.

(2) The board of pharmacy must make reports submitted under this section available to the public.

(3) For the purposes of this section, "reporting period" means the period commencing January 1st and ending December 31st of the same calendar year.

NEW SECTION. **Sec. 10.** (1) The corporation must promote the use of the product stewardship program and the safe storage and proper disposal of covered drugs so that collection options are widely understood by customers, pharmacists, retailers of covered drugs, and health care practitioners including doctors and other prescribers.

(2) The corporation must establish a toll-free telephone number and web site where collection options will be publicized and prepare educational and outreach materials describing where and how to return unwanted covered drugs to the product stewardship program. These materials must be provided to pharmacies, health care facilities, and other interested parties for dissemination to residential sources.

(3) The department of health, the department of ecology, and local governments must promote the use of the product stewardship program and the program's toll-free telephone number and web site through existing educational methods.

(4) The corporation must annually evaluate the effectiveness of its outreach and program activities. At least every four years, this evaluation must include the percentage of residents that are aware of the program and to what extent residents find the program convenient.

NEW SECTION. **Sec. 11.** (1) Covered drugs collected under the product stewardship program must be disposed of at a properly permitted hazardous waste disposal facility, or at an in-state solid waste incinerator facility permitted under chapter 173-434 WAC, or at a properly permitted solid waste incinerator facility in a neighboring state or province.

(2) Unwanted covered drugs from residential sources retain all other generator exemptions for household hazardous waste.

(3) The corporation may petition the department of ecology for approval to use final disposal technologies that provide superior environmental and human health protection than provided by current the disposal technologies in subsection (1) of this section for drugs if

and when those technologies are proven and available. The proposed technology must provide equivalent protection in each, and superior protection in one or more, of the following areas:

(a) Monitoring of any emissions or waste;

(b) Worker health and safety;

(c) Air, water, or land emissions contributing to persistent, bioaccumulative, and toxic pollution; and

(d) Overall impact to the environment and human health.

NEW SECTION. **Sec. 12.** (1) The board of pharmacy may suspend in whole or in part the product stewardship program if it determines that it is necessary to protect the public from imminent danger. The board may refuse, suspend, or revoke the license of the product stewardship program as provided in RCW 18.64.200.

(2) If the board of pharmacy determines that the corporation is not in compliance with this chapter or the program standards adopted by the board of pharmacy under section 15 of this act, the board of pharmacy may send the corporation a written warning stating the program is not in compliance. The corporation has thirty days after receipt of the notice to come into compliance. If the corporation is not in compliance after thirty days, the board of pharmacy may assess a penalty of five thousand dollars for the first violation and ten thousand dollars for the second and each subsequent violation. A subsequent violation occurs each thirty days of noncompliance. This subsection does not preclude the board of pharmacy from suspending the product stewardship program.

(3) The corporation may appeal penalties prescribed under this section under the administrative procedure act, chapter 34.05 RCW.

(4) All penalties levied under this section must be deposited into the pharmaceutical product stewardship program account established under section 16 of this act.

NEW SECTION. **Sec. 13.** (1) The board of pharmacy shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer who is not participating in the product stewardship program, or who is not remitting full payment to the corporation for its share of the corporation's total costs, and whose covered drug is being sold in the state.

(2) A producer not participating in the product stewardship program, or who is not remitting full payment to the corporation for its share of the corporation's total costs, whose covered drug continues to be sold in the state sixty days after receiving a written warning from the board of pharmacy must be assessed a penalty of ten thousand dollars for each calendar day that the violation continues.

(3) A producer may appeal penalties prescribed under this section under the administrative procedure act, chapter 34.05 RCW.

(4) All penalties levied under this section must be deposited into the pharmaceutical product stewardship program account established under section 16 of this act.

NEW SECTION. **Sec. 14.** Beginning in 2012, each drug wholesaler that sells any covered drug in the state must provide a list of producers of covered drugs to the board of pharmacy in a form determined by the board of pharmacy. Wholesalers must update the list by January 15th of each year.

NEW SECTION. **Sec. 15.** (1) The board of pharmacy may adopt rules necessary to implement, administer, and enforce this chapter.

(2) The board of pharmacy, in consultation with the department of ecology, may establish performance standards for the product stewardship program.

(3) By December 31, 2016, the board of pharmacy shall report to the appropriate committees of the legislature concerning the status of the product stewardship program and recommendations for changes to this chapter.

NEW SECTION. **Sec. 16.** The pharmaceutical product stewardship program account is created in the custody of the state treasurer. All receipts from fees and penalties collected under this chapter must be deposited into the account. Expenditures from the account may be used only for administering this chapter. Only the secretary of the department of health or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 17.** RCW 69.41.030 and 2010 c 83 s 1 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the department of social and health services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2) The product stewardship program created in chapter 70.-- RCW (the new chapter created in section 22 of this act) may possess and transport drugs provided that the product stewardship program complies with this chapter.

(3)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

**Sec. 18.** RCW 18.64.005 and 1990 c 83 s 1 are each amended to read as follows:

The board shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(8) Adopt rules establishing and governing continuing education

requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of such board. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers;

(14) Adopt rules to implement, administer, and enforce the laws on the collection, transportation, disposal, and possession of unwanted covered drugs from residential sources through producer-provided and funded product stewardship programs under chapter 70.--- RCW (the new chapter created in section 22 of this act).

**Sec. 19.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of ((~~community, trade, and economic development~~)) commerce:

(i) Financial and proprietary information collected from any person and provided to the department of ((~~community, trade, and economic development~~)) commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of ((~~community, trade, and economic development~~)) commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of ((~~community, trade, and economic development~~)) commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of ((~~community, trade, and economic development~~)) commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business; ((~~and~~))

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and

(21) Producer information provided to the medicine return corporation or to the board of pharmacy under section 6 of this act to determine apportionment costs.

NEW SECTION. **Sec. 20.** Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

NEW SECTION. **Sec. 21.** Nothing in this chapter applies to hospitals licensed under chapter 70.41 RCW, whose pharmaceutical wastes are disposed of under rules and policies adopted by the department of ecology.

NEW SECTION. **Sec. 22.** Sections 1 through 16, 20, and 21 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 23.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 24.** This act must be liberally construed to carry out its purposes and objectives.

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