
HOUSE BILL 1382

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Jenkins, Harris, Cody, Tharinger, Green, Morrell, Ryu, Riccelli, Bergquist, Reykdal, Lytton, Fitzgibbon, Van De Wege, Maxwell, Pollet, and Santos

Read first time 01/24/13. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to medication access for the uninsured; adding a
2 new chapter to Title 69 RCW; providing an effective date; and declaring
3 an emergency.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Department" means the department of health.

8 (2) "Drug manufacturer" means a facility licensed by the board of
9 pharmacy under chapter 18.64 RCW that engages in the manufacture of
10 drugs or devices.

11 (3) "Drug wholesaler" means a facility licensed by the board of
12 pharmacy under chapter 18.64 RCW that buys drugs or devices for resale
13 and distribution to corporations, individuals, or entities other than
14 consumers.

15 (4) "Medical facility" means a hospital, pharmacy, nursing home,
16 boarding home, adult family home, or medical clinic where the
17 prescription drugs are under the control of a practitioner.

18 (5) "Person" means an individual, corporation, business trust,

1 estate, trust, partnership, association, joint venture, government,
2 governmental subdivision or agency, or any other legal or commercial
3 entity.

4 (6) "Pharmacist" means a person licensed by the board of pharmacy
5 under chapter 18.64 RCW to practice pharmacy.

6 (7) "Pharmacy" means a facility licensed by the board of pharmacy
7 under chapter 18.64 RCW in which the practice of pharmacy is conducted.

8 (8) "Practitioner" has the same meaning as in RCW 69.41.010.

9 (9) "Prescribing practitioner" means a person authorized to issue
10 orders or prescriptions for legend drugs as listed in RCW 69.41.030.

11 (10) "Prescription drugs" has the same meaning as "legend drugs" as
12 defined in RCW 69.41.010. The term includes cancer drugs and
13 antirejection drugs. The term does not include controlled substances.

14 (11) "Supplies" means the supplies necessary to administer
15 prescription drugs that are donated under the prescription drug
16 redistribution program.

17 NEW SECTION. **Sec. 2.** Any practitioner, pharmacist, medical
18 facility, drug manufacturer, or drug wholesaler may donate prescription
19 drugs and supplies to a pharmacy for redistribution without
20 compensation or the expectation of compensation to individuals who meet
21 the prioritization criteria established in section 4 of this act.
22 Donations of prescription drugs and supplies may be made on the
23 premises of a pharmacy that elects to participate in the provisions of
24 this chapter. A pharmacy that receives prescription drugs or supplies
25 may distribute the prescription drugs or supplies to another pharmacy,
26 pharmacist, or prescribing practitioner for use pursuant to the
27 program.

28 NEW SECTION. **Sec. 3.** To be eligible for the immunity in section
29 7 of this act, a person distributing donated prescription drugs under
30 this chapter must:

31 (1) Meet all requirements in section 5 of this act and any
32 applicable rules related to the return or exchange of prescription
33 drugs or supplies adopted by the board of pharmacy;

34 (2) Maintain records of any prescription drugs and supplies donated
35 to the pharmacy and subsequently dispensed by the pharmacy; and

36 (3) Identify itself to the public as participating in this chapter.

1 NEW SECTION. **Sec. 4.** Pharmacies, pharmacists, and prescribing
2 practitioners that elect to dispense donated prescription drugs and
3 supplies under this chapter shall give priority to individuals who are
4 uninsured and at or below two hundred percent of the federal poverty
5 level. If an uninsured and low-income individual has not been
6 identified as in need of available prescription drugs and supplies,
7 those prescription drugs and supplies may be dispensed to other
8 individuals expressing need.

9 NEW SECTION. **Sec. 5.** (1) Prescription drugs or supplies may be
10 accepted and dispensed under this chapter if all of the following
11 conditions are met:

12 (a) The prescription drug is in:

13 (i) Its original sealed and tamper-evident packaging; or

14 (ii) An opened package if it contains single unit doses that remain
15 intact;

16 (b) The prescription drug bears an expiration date that is more
17 than six months after the date the prescription drug was donated;

18 (c) The prescription drug or supplies are inspected before the
19 prescription drug or supplies are dispensed by a pharmacist employed by
20 or under contract with the pharmacy, and the pharmacist determines that
21 the prescription drug or supplies are not adulterated or misbranded;

22 (d) The prescription drug or supplies are prescribed by a
23 practitioner for use by an eligible individual and are dispensed by a
24 pharmacist; and

25 (e) Any other safety precautions established by the department have
26 been satisfied.

27 (2)(a) If a person who donates prescription drugs or supplies to a
28 pharmacy under this chapter receives a notice that the donated
29 prescription drugs or supplies have been recalled, the person shall
30 notify the pharmacy of the recall.

31 (b) If a pharmacy that receives and distributes donated
32 prescription drugs to another pharmacy, pharmacist, or prescribing
33 practitioner under this chapter receives notice that the donated
34 prescription drugs or supplies have been recalled, the pharmacy shall
35 notify the other pharmacy, pharmacist, or prescribing practitioner of
36 the recall.

1 (c) If a person collecting or distributing donated prescription
2 drugs or supplies under this chapter receives a recall notice from the
3 drug manufacturer or the federal food and drug administration for
4 donated prescription drugs or supplies, the person shall immediately
5 remove all recalled medications from stock and comply with the
6 instructions in the recall notice.

7 (3) Prescription drugs and supplies donated under this chapter may
8 not be resold.

9 (4) Prescription drugs and supplies dispensed under this chapter
10 shall not be eligible for reimbursement under the medical assistance
11 program.

12 NEW SECTION. **Sec. 6.** (1) The department must adopt rules
13 establishing forms and procedures to reasonably verify eligibility and
14 prioritize patients seeking to receive donated prescription drugs and
15 supplies. A patient's eligibility may be determined by a form signed
16 by the patient certifying that the patient is uninsured and at or below
17 two hundred percent of the federal poverty level.

18 (2) The department may establish any other rules necessary to
19 implement this chapter.

20 NEW SECTION. **Sec. 7.** (1) A drug manufacturer acting in good faith
21 may not, in the absence of a finding of gross negligence, be subject to
22 criminal prosecution or liability in tort or other civil action, for
23 injury, death, or loss to person or property for matters relating to
24 the donation, acceptance, or dispensing of a drug manufactured by the
25 drug manufacturer that is donated by any person under the program
26 including, but not limited to, liability for failure to transfer or
27 communicate product or consumer information or the expiration date of
28 the donated prescription drug.

29 (2) Any person or entity, other than a drug manufacturer subject to
30 subsection (1) of this section, which exercises reasonable care in
31 donating, accepting, or distributing prescription drugs under this
32 chapter is immune from criminal prosecution, professional discipline,
33 or civil liability of any kind for any injury, death, or loss to any
34 person or property relating to such activities other than acts or
35 omissions constituting gross negligence or willful or wanton
36 misconduct.

1 (3) The immunity provided under subsection (1) of this section does
2 not absolve a drug manufacturer of a criminal or civil liability that
3 would have existed but for the donation, nor does such donation
4 increase the liability of the drug manufacturer in such an action.

5 NEW SECTION. **Sec. 8.** Access to prescription drugs and supplies
6 under this chapter is subject to availability. Nothing in this chapter
7 establishes an entitlement to receive prescription drugs and supplies
8 through the program.

9 NEW SECTION. **Sec. 9.** Nothing in this chapter restricts the use of
10 samples by a practitioner during the course of the practitioner's
11 duties at a medical facility or pharmacy.

12 NEW SECTION. **Sec. 10.** Nothing in this chapter authorizes the
13 resale of prescription drugs by any person.

14 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 2013.

18 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act
19 constitute a new chapter in Title 69 RCW.

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