H-0322.1

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**HOUSE BILL 1161**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Peterson, Davis, Pollet, and Thai

AN ACT Relating to modifying the requirements for drug take-back programs; amending RCW 69.48.010, 69.48.050, 69.48.100, 69.48.120, 43.131.423, and 43.131.424; and creating a new section.

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

**Sec.**  RCW 69.48.010 and 2018 c 196 s 1 are each amended to read as follows:

(1) Abuse, fatal overdoses, and poisonings from prescription and over-the-counter medicines used in the home have emerged as an epidemic in recent years. Poisoning is the leading cause of unintentional injury-related death in Washington, and more than ninety percent of poisoning deaths are due to drug overdoses. Poisoning by prescription and over-the-counter medicines is also one of the most common means of suicide and suicide attempts, with poisonings involved in more than twenty-eight thousand suicide attempts between 2004 and 2013.

(2) Home medicine cabinets are the most common source of prescription drugs that are diverted and misused. Studies find about seventy percent of those who abuse prescription medicines obtain the drugs from family members or friends, usually for free. People who are addicted to heroin often first abused prescription opiate medicines. Unused, unwanted, and expired medicines that accumulate in homes increase risks of drug abuse, overdoses, and preventable poisonings.

(3) A safe system for the collection and disposal of unused, unwanted, and expired medicines is a key element of a comprehensive strategy to prevent prescription drug abuse, but disposing of medicines by flushing them down the toilet or placing them in the garbage can contaminate groundwater and other bodies of water, contributing to long-term harm to the environment and animal life.

(4) The legislature therefore finds that it is in the interest of public health to establish a single, uniform, statewide system of regulation for safe and secure collection and disposal of medicines through ((~~a uniform~~)) drug "take-back" programs operated and funded by drug manufacturers.

NEW SECTION. **Sec.**  (1) The legislature finds that in 2018, the legislature passed Engrossed Substitute House Bill No. 1047, which required drug manufacturers that sell drugs into Washington to operate a drug take-back program to collect and dispose of prescription and over-the-counter drugs. Further, the legislature finds that there is uncertainty about whether, under current law, more than one drug take-back program may operate.

(2) Therefore, the legislature intends to clearly authorize the department of health to approve and allow the operation of multiple drug take-back programs that meet other statutory requirements.

**Sec.**  RCW 69.48.050 and 2018 c 196 s 5 are each amended to read as follows:

(1) ((~~By July 1, 2019, a~~)) A program operator must submit a proposal for the establishment and implementation of a drug take-back program to the department for approval. The department shall approve a proposed program if the applicant submits a completed application, the proposed program meets the requirements of subsection (2) of this section, and the applicant pays the appropriate fee established by the department under RCW 69.48.120. The department may approve one or more program operators consistent with the provisions of this section.

(2) To be approved by the department, a proposed drug take-back program must:

(a) Identify and provide contact information for the program operator and each participating covered manufacturer;

(b) Identify and provide contact information for the authorized collectors for the proposed program, as well as the reasons for excluding any potential authorized collectors from participation in the program;

(c) Provide for a collection system that complies with RCW 69.48.060;

(d) Ensure that physical collection sites are the primary method of collection and that methods of supplementing physical collection site service are the secondary methods for collection. Mail-back distribution locations should account for 25 percent or less of a program's collection sites. Periodic collection events should account for 10 percent or less of a program's collection sites. For the purposes of this calculation, each periodic collection event equates to a single collection site;

(e) Provide for a handling and disposal system that complies with RCW 69.48.080;

((~~(e)~~)) (f) Identify any transporters and waste disposal facilities that the program will use;

((~~(f)~~)) (g) Adopt policies and procedures to be followed by persons handling covered drugs collected under the program to ensure safety, security, and compliance with regulations adopted by the United States drug enforcement administration, as well as any applicable laws;

((~~(g)~~)) (h) Ensure the security of patient information on drug packaging during collection, transportation, recycling, and disposal;

((~~(h)~~)) (i) Promote the program by providing consumers, pharmacies, and other entities with educational and informational materials as required by RCW 69.48.070;

((~~(i)~~)) (j) Demonstrate adequate funding for all administrative and operational costs of the drug take-back program, with costs apportioned among participating covered manufacturers;

((~~(j)~~)) (k) Set long-term and short-term goals with respect to collection amounts and public awareness; and

((~~(k)~~)) (l) Consider: (i) The use of existing providers of pharmaceutical waste transportation and disposal services; (ii) separation of covered drugs from packaging to reduce transportation and disposal costs; and (iii) recycling of drug packaging.

(3)(a) No later than one hundred twenty days after receipt of a drug take-back program proposal, the department shall either approve or reject the proposal in writing to the applicant. The department may extend the deadline for approval or rejection of a proposal for good cause. If the department rejects the proposal, it shall provide the reason for rejection.

(b) No later than ninety days after receipt of a notice of rejection under (a) of this subsection, the applicant shall submit a revised proposal to the department. The department shall either approve or reject the revised proposal in writing to the applicant within ninety days after receipt of the revised proposal, including the reason for rejection, if applicable.

(c) If the department rejects a revised proposal, the department may:

(i) Require the program operator to submit a further revised proposal;

(ii) Develop and impose changes to some or all of the revised proposal to address deficiencies;

(iii) Require the covered manufacturer or covered manufacturers that proposed the rejected revised proposal to participate in a previously approved drug take-back program; or

(iv) Find the covered manufacturer out of compliance with the requirements of this chapter and take enforcement action as provided in RCW 69.48.110.

(4) The program operator must initiate operation of an approved drug take-back program no later than one hundred eighty days after approval of the proposal by the department.

(5)(a) Proposed changes to an approved drug take-back program that substantially alter program operations must have prior written approval of the department. A program operator must submit to the department such a proposed change in writing at least fifteen days before the change is scheduled to occur. Changes requiring prior approval of the department include changes to participating covered manufacturers, collection methods, achievement of the service convenience goal described in RCW 69.48.060, policies and procedures for handling covered drugs, education and promotion methods, and selection of disposal facilities.

(b) For changes to a drug take-back program that do not substantially alter program operations, a program operator must notify the department at least seven days before implementing the change. Changes that do not substantially alter program operations include changes to collection site locations, methods for scheduling and locating periodic collection events, and methods for distributing prepaid, preaddressed mailers.

(c) A program operator must notify the department of any changes to the official point of contact for the program no later than fifteen days after the change. A program operator must notify the department of any changes in ownership or contact information for participating covered manufacturers no later than ninety days after such change.

(6) ((~~No later than four years after a drug take-back program initiates operations~~)) By July 1, 2024, and every four years thereafter, ((~~the~~)) all program operators must submit an updated proposal to the department describing any substantive changes to program elements described in subsection (2) of this section. The department shall approve or reject the updated proposal using the process described in subsection (3) of this section.

(7) If there is a single program operator in operation at any time and that operator intends to leave the program for any reason, the department must solicit new proposals. The department may approve a proposal if it meets the requirements in subsection (2) of this section and the applicant pays the appropriate fee established by the department under RCW 69.48.120. The department approves or rejects proposals received using the process described in subsection (3) of this section.

(8) A covered manufacturer may change the approved program it participates in but must maintain continuous participation in an established drug take-back program and may not leave an approved take-back program until it transfers participation to an approved program that has begun drug collection.

(9)(a) In the event that a program operator for the drug take-back program leaves the program for any reason, all covered manufacturers that participated in that program must immediately join an existing approved drug take-back program.

(b) In the event that there is a single drug take-back program operator, and that program operator leaves the program, all covered manufacturers must join an approved drug take-back program as soon as one is approved.

(10) The department shall make all proposals submitted under this section available to the public and shall provide an opportunity for written public comment on each proposal.

**Sec.**  RCW 69.48.100 and 2018 c 196 s 10 are each amended to read as follows:

(1) By July 1st after the first full year of implementation, and each July 1st thereafter, ((~~a~~)) each program operator must submit to the department a report describing implementation of the drug take-back program during the previous calendar year. The report must include:

(a) A list of covered manufacturers participating in the drug take-back program;

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

(c) The following details regarding the program's collection system: A list of collection sites with addresses; the number of mailers provided; locations where mailers were provided, if applicable; dates and locations of collection events held, if applicable; and the transporters and disposal facility or facilities used;

(d) Whether any safety or security problems occurred during collection, transportation, or disposal of covered drugs, and if so, completed and anticipated changes to policies, procedures, or tracking mechanisms to address the problem and improve safety and security;

(e) A description of the public education, outreach, and evaluation activities implemented;

(f) A description of how collected packaging was recycled to the extent feasible;

(g) A summary of the program's goals for collection amounts and public awareness, the degree of success in meeting those goals, and if any goals have not been met, what effort will be made to achieve those goals the following year; and

(h) The program's annual expenditures, itemized by program category.

(2) Within thirty days after each annual period of operation of an approved drug take-back program, the program operator shall submit an annual collection amount report to the department that provides the total amount, by weight, of covered drugs collected from each collection site during the prior year.

(3) The department shall make reports submitted under this section available to the public through the internet.

**Sec.**  RCW 69.48.120 and 2018 c 196 s 12 are each amended to read as follows:

(1)(a) ((~~By July 1, 2019, the~~)) The department shall: Determine its costs for the administration, oversight, and enforcement of the requirements of this chapter, including, but not limited to, a fee for proposal review, and the survey required under RCW 69.48.200; pursuant to RCW 43.70.250, set fees at a level sufficient to recover the costs associated with administration, oversight, and enforcement; and adopt rules establishing requirements for program operator proposals.

(b) The department shall not impose any fees in excess of its actual administrative, oversight, and enforcement costs. The fees collected from each program operator in calendar year 2020 and any subsequent year may not exceed ten percent of the program's annual expenditures as reported to the department in the annual report required by RCW 69.48.100 and determined by the department.

(c) Adjustments to the department's fees may be made annually and shall not exceed actual administration, oversight, and enforcement costs. Adjustments for inflation may not exceed the percentage change in the consumer price index for all urban consumers in the United States as calculated by the United States department of labor as averaged by city for the twelve-month period ending with June of the previous year.

(d) The department shall collect fees from each program operator by October 1, 2019, and annually thereafter.

(2) All fees collected under this section must be deposited in the secure drug take-back program account established in RCW 69.48.130.

**Sec.**  RCW 43.131.423 and 2018 c 196 s 26 are each amended to read as follows:

The authorization for drug take-back programs created in chapter 196, Laws of 2018 and chapter . . ., Laws of 2021 (sections 1 through 5 of this act) shall be terminated on January 1, 2029, as provided in RCW 43.131.424.

**Sec.**  RCW 43.131.424 and 2018 c 196 s 27 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2030:

(1) RCW 69.48.010 and 2021 c . . . s 1 (section 1 of this act) & 2018 c 196 s 1;

(2) RCW 69.48.020 and 2018 c 196 s 2;

((~~(2)~~)) (3) RCW 69.48.030 and 2018 c 196 s 3;

((~~(3)~~)) (4) RCW 69.48.040 and 2018 c 196 s 4;

((~~(4)~~)) (5) RCW 69.48.050 and 2021 c . . . s 3 (section 3 of this act) & 2018 c 196 s 5;

((~~(5)~~)) (6) RCW 69.48.060 and 2018 c 196 s 6;

((~~(6)~~)) (7) RCW 69.48.070 and 2018 c 196 s 7;

((~~(7)~~)) (8) RCW 69.48.080 and 2018 c 196 s 8;

((~~(8)~~)) (9) RCW 69.48.090 and 2018 c 196 s 9;

((~~(9)~~)) (10) RCW 69.48.100 and 2021 c . . . s 4 (section 4 of this act) & 2018 c 196 s 10;

((~~(10)~~)) (11) RCW 69.48.110 and 2018 c 196 s 11;

((~~(11)~~)) (12) RCW 69.48.120 and 2021 c . . . s 5 (section 5 of this act) & 2018 c 196 s 12;

((~~(12)~~)) (13) RCW 69.48.130 and 2018 c 196 s 13;

((~~(13)~~)) (14) RCW 69.48.140 and 2018 c 196 s 14;

((~~(14)~~)) (15) RCW 69.48.150 and 2018 c 196 s 15;

((~~(15)~~)) (16) RCW 69.48.160 and 2018 c 196 s 16;

((~~(16)~~)) (17) RCW 69.48.170 and 2018 c 196 s 17;

((~~(17)~~)) (18) RCW 69.48.180 and 2018 c 196 s 18;

((~~(18)~~)) (19) RCW 69.48.190 and 2018 c 196 s 19; and

((~~(19)~~)) (20) RCW 69.48.200 and 2018 c 196 s 20.

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