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HOUSE BILL 1496

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Fitzgibbon, Upthegrove, Cody, and Takko

Read first time 01/24/11. Referred to Committee on Environment.

1            AN ACT Relating to the disposal of residential sharps waste;  
2 reenacting and amending RCW 70.105D.070; adding new sections to chapter  
3 70.95K RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** (1) A pharmaceutical manufacturer that sells  
6 or distributes medication in this state that is usually intended to be  
7 self-injected at home through the use of hypodermic needles, syringes  
8 with needles attached, intravenous tubing with needles attached,  
9 lancets, or any other similar devices shall submit a plan to the  
10 department of health that describes specific actions the manufacturer  
11 will take on and after January 1, 2013, to provide a free and  
12 convenient service for the safe collection and proper disposal of  
13 residential sharps waste to all consumers who use the manufacturer's  
14 self-injected medications.

15            (2) The plan required under subsection (1) of this section must be  
16 submitted to the department of health by July 1, 2012, and updated and  
17 submitted annually thereafter by July 1st.

18            (3) Every pharmaceutical manufacturer required to submit a plan  
19 under this section shall pay a filing fee to the department of health

1 at the time the plan is submitted. The department of health shall  
2 determine the amount of the filing fee based on the estimated cost to  
3 the department in reviewing the manufacturer's plan and monitoring  
4 compliance with the plan.

5 (4) The department of health is responsible for collecting the  
6 filing fees authorized under subsection (3) of this section. The  
7 department of health shall deposit all filing fees collected under this  
8 section into the state toxics control account under RCW 70.105D.070.

9 NEW SECTION. **Sec. 2.** (1) The plan required under section 1 of  
10 this act must be submitted in an electronic format prescribed by the  
11 department of health. The plan must identify by name all of the  
12 pharmaceutical manufacturer's medications that are usually intended to  
13 be self-injected. The plan must also include, at a minimum, a  
14 description of the actions the manufacturer will take to do the  
15 following:

16 (a) Provide patient starter kits or other educational materials on  
17 safe needle disposal to new patients;

18 (b) Provide, at no cost to the consumer, sharps waste containers  
19 approved by the United States postal service for use in a mail program;  
20 and

21 (c) Provide consumer information about the safe management and  
22 proper disposal of needles through literature, web sites, DVDs, or  
23 toll-free numbers.

24 (2) If a plan submitted by a manufacturer does not provide for a  
25 free mail program, the plan must include and describe a free and  
26 convenient network of retail businesses, such as pharmacies, that the  
27 manufacturer will establish to safely collect and dispose of  
28 residential sharps waste. The manufacturer shall also describe in its  
29 plan how it intends to support efforts by retailers, local governments,  
30 health care organizations, public health officers, and solid waste  
31 service providers to ensure the public is aware of the free and  
32 convenient collection network established by the manufacturer.

33 (3) The department of health shall post and maintain all copies of  
34 all plans submitted by pharmaceutical manufacturers on its web site.

35 (4) Pharmaceutical manufacturers shall post and maintain a copy of  
36 the plan required under section 1 of this act on their web sites.

1        NEW SECTION.    **Sec. 3.**    (1)(a) Except as provided in subsection (2)  
2 of this section, a pharmaceutical manufacturer that fails to submit or  
3 implement a plan as required under section 1 of this act, or post a  
4 copy of the plan on the pharmaceutical manufacturer's web site as  
5 required under section 2 of this act, is subject to a civil penalty of:  
6 (i) Five thousand dollars per day for every day the plan is late; (ii)  
7 five thousand dollars per day for every day the manufacturer fails to  
8 fully implement its plan; and (iii) five thousand dollars per day for  
9 every day the plan is not posted on the pharmaceutical manufacturer's  
10 web site.

11        (b) The department of health is responsible for collecting the  
12 penalties authorized under (a) of this subsection. The department of  
13 health shall deposit all penalties collected under this section into  
14 the state toxics control account under RCW 70.105D.070.

15        (2) Neither this section nor section 1 or 2 of this act apply to a  
16 pharmaceutical manufacturer that provides a written notification to the  
17 department of health by July 1, 2012, and each year thereafter, stating  
18 that the manufacturer:    (a) Has previously submitted a plan to an  
19 agency of state government that documents that the manufacturer has  
20 arranged to provide, at no cost to the consumer, a sharps waste  
21 container that has been approved by the United States postal service  
22 for use in a mail program; and (b) is continuing to provide a free and  
23 convenient mail program to residents of this state.

24        NEW SECTION.    **Sec. 4.**    Expenses to cover the cost of administering  
25 sections 1 through 3 and 5 of this act must be paid from the state  
26 toxics control account under RCW 70.105D.070.

27        NEW SECTION.    **Sec. 5.**    The department of health may adopt rules as  
28 necessary for the purpose of implementing, administering, and enforcing  
29 sections 1 through 4 of this act.

30        **Sec. 6.**    RCW 70.105D.070 and 2010 1st sp.s. c 37 s 942, 2009 c 564  
31 s 951, and 2009 c 187 s 5 are each reenacted and amended to read as  
32 follows:

33        (1) The state toxics control account and the local toxics control  
34 account are hereby created in the state treasury.

1 (2) The following moneys shall be deposited into the state toxics  
2 control account: (a) Those revenues which are raised by the tax  
3 imposed under RCW 82.21.030 and which are attributable to that portion  
4 of the rate equal to thirty-three one-hundredths of one percent; (b)  
5 the costs of remedial actions recovered under this chapter or chapter  
6 70.105A RCW; (c) penalties collected or recovered under this chapter;  
7 and (d) any other money appropriated or transferred to the account by  
8 the legislature. Moneys in the account may be used only to carry out  
9 the purposes of this chapter, including but not limited to the  
10 following activities:

11 (i) The state's responsibility for hazardous waste planning,  
12 management, regulation, enforcement, technical assistance, and public  
13 education required under chapter 70.105 RCW;

14 (ii) The state's responsibility for solid waste planning,  
15 management, regulation, enforcement, technical assistance, and public  
16 education required under chapter 70.95 RCW;

17 (iii) The hazardous waste cleanup program required under this  
18 chapter;

19 (iv) State matching funds required under the federal cleanup law;

20 (v) Financial assistance for local programs in accordance with  
21 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

22 (vi) State government programs for the safe reduction, recycling,  
23 or disposal of hazardous wastes from households, small businesses, and  
24 agriculture;

25 (vii) Hazardous materials emergency response training;

26 (viii) Water and environmental health protection and monitoring  
27 programs;

28 (ix) Programs authorized under chapter 70.146 RCW;

29 (x) A public participation program, including regional citizen  
30 advisory committees;

31 (xi) Public funding to assist potentially liable persons to pay for  
32 the costs of remedial action in compliance with cleanup standards under  
33 RCW 70.105D.030(2)(e) but only when the amount and terms of such  
34 funding are established under a settlement agreement under RCW  
35 70.105D.040(4) and when the director has found that the funding will  
36 achieve both (A) a substantially more expeditious or enhanced cleanup  
37 than would otherwise occur, and (B) the prevention or mitigation of  
38 unfair economic hardship;

1 (xii) Development and demonstration of alternative management  
2 technologies designed to carry out the hazardous waste management  
3 priorities of RCW 70.105.150;

4 (xiii) Reimbursement for expenses as authorized under section 4 of  
5 this act;

6 (xiv) During the 2009-2011 fiscal biennium, shoreline update  
7 technical assistance; and

8 (~~(xiv)~~) (xv) During the 2009-2011 fiscal biennium,  
9 multijurisdictional permitting teams.

10 (3) The following moneys shall be deposited into the local toxics  
11 control account: Those revenues which are raised by the tax imposed  
12 under RCW 82.21.030 and which are attributable to that portion of the  
13 rate equal to thirty-seven one-hundredths of one percent.

14 (a) Moneys deposited in the local toxics control account shall be  
15 used by the department for grants or loans to local governments for the  
16 following purposes in descending order of priority:

17 (i) Remedial actions;

18 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

19 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,  
20 70.95I, and 70.105 RCW;

21 (iv) Funds for a program to assist in the assessment and cleanup of  
22 sites of methamphetamine production, but not to be used for the initial  
23 containment of such sites, consistent with the responsibilities and  
24 intent of RCW 69.50.511; and

25 (v) Cleanup and disposal of hazardous substances from abandoned or  
26 derelict vessels, defined for the purposes of this section as vessels  
27 that have little or no value and either have no identified owner or  
28 have an identified owner lacking financial resources to clean up and  
29 dispose of the vessel, that pose a threat to human health or the  
30 environment.

31 (b) Funds for plans and programs shall be allocated consistent with  
32 the priorities and matching requirements established in chapters  
33 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that  
34 is a Puget Sound partner, as defined in RCW 90.71.010, along with any  
35 project that is referenced in the action agenda developed by the Puget  
36 Sound partnership under RCW 90.71.310, shall, except as conditioned by  
37 RCW 70.105D.120, receive priority for any available funding for any  
38 grant or funding programs or sources that use a competitive bidding

1 process. During the 2007-2009 fiscal biennium, moneys in the account  
2 may also be used for grants to local governments to retrofit public  
3 sector diesel equipment and for storm water planning and implementation  
4 activities.

5 (c) To expedite cleanups throughout the state, the department shall  
6 partner with local communities and liable parties for cleanups. The  
7 department is authorized to use the following additional strategies in  
8 order to ensure a healthful environment for future generations:

9 (i) The director may alter grant-matching requirements to create  
10 incentives for local governments to expedite cleanups when one of the  
11 following conditions exists:

12 (A) Funding would prevent or mitigate unfair economic hardship  
13 imposed by the clean-up liability;

14 (B) Funding would create new substantial economic development,  
15 public recreational, or habitat restoration opportunities that would  
16 not otherwise occur; or

17 (C) Funding would create an opportunity for acquisition and  
18 redevelopment of vacant, orphaned, or abandoned property under RCW  
19 70.105D.040(5) that would not otherwise occur;

20 (ii) The use of outside contracts to conduct necessary studies;

21 (iii) The purchase of remedial action cost-cap insurance, when  
22 necessary to expedite multiparty clean-up efforts.

23 (d) To facilitate and expedite cleanups using funds from the local  
24 toxics control account, during the 2009-2011 fiscal biennium the  
25 director may establish grant-funded accounts to hold and disperse local  
26 toxics control account funds and funds from local governments to be  
27 used for remedial actions.

28 (4) Except for unanticipated receipts under RCW 43.79.260 through  
29 43.79.282, moneys in the state and local toxics control accounts may be  
30 spent only after appropriation by statute.

31 (5) Except during the 2009-2011 fiscal biennium, one percent of the  
32 moneys deposited into the state and local toxics control accounts shall  
33 be allocated only for public participation grants to persons who may be  
34 adversely affected by a release or threatened release of a hazardous  
35 substance and to not-for-profit public interest organizations. The  
36 primary purpose of these grants is to facilitate the participation by  
37 persons and organizations in the investigation and remedying of  
38 releases or threatened releases of hazardous substances and to

1 implement the state's solid and hazardous waste management priorities.  
2 No grant may exceed sixty thousand dollars. Grants may be renewed  
3 annually. Moneys appropriated for public participation from either  
4 account which are not expended at the close of any biennium shall  
5 revert to the state toxics control account.

6 (6) No moneys deposited into either the state or local toxics  
7 control account may be used for solid waste incinerator feasibility  
8 studies, construction, maintenance, or operation, or, after January 1,  
9 2010, for projects designed to address the restoration of Puget Sound,  
10 funded in a competitive grant process, that are in conflict with the  
11 action agenda developed by the Puget Sound partnership under RCW  
12 90.71.310.

13 (7) The department shall adopt rules for grant or loan issuance and  
14 performance.

15 (8) During the 2007-2009 and 2009-2011 fiscal biennia, the  
16 legislature may transfer from the local toxics control account to  
17 either the state general fund or the oil spill prevention account, or  
18 both such amounts as reflect excess fund balance in the account.

19 (9) During the 2009-2011 fiscal biennium, the local toxics control  
20 account may also be used for a standby rescue tug at Neah Bay, local  
21 government shoreline update grants, private and public sector diesel  
22 equipment retrofit, and oil spill prevention, preparedness, and  
23 response activities.

24 (10) During the 2009-2011 fiscal biennium, the legislature may  
25 transfer from the state toxics control account to the state general  
26 fund such amounts as reflect the excess fund balance in the account.

27 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act are each  
28 added to chapter 70.95K RCW.

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