

# HOUSE BILL REPORT

## ESHB 2458

---

### As Passed Legislature

**Title:** An act relating to participation in the prescription drug donation program.

**Brief Description:** Concerning participation in the prescription drug donation program.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Parker, Cody, Riccelli, Holy and Tharinger).

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 1/19/16, 1/29/16 [DPS].

##### **Floor Activity:**

Passed House: 2/11/16, 97-0.

Senate Amended.

Passed Senate: 3/2/16, 47-0.

House Concurred.

Passed House: 3/7/16, 96-0.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Allows individuals to donate unused prescription drugs that meet certain quality standards to a pharmacy for redistribution to patients at no cost.
- Removes the requirement that priority for receiving donated drugs be given to patients with an income of 200 percent of the federal poverty level or less.

---

### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Schmick, Ranking Minority Member; Caldier, Clibborn, DeBolt, Jinkins, Johnson, Moeller, Robinson, Short, Tharinger and Van De Wege.

**Staff:** Chris Blake (786-7392).

#### **Background:**

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Except in limited situations, the Pharmacy Quality Assurance Commission prohibits pharmacists from accepting drugs and supplies for return or exchange after they have been removed from the premises where they were sold, distributed, or dispensed. Exceptions apply to drugs that have been dispensed in unit dose forms or in a sealed ampoule that allows the pharmacist to determine if it has been tampered with and that it meets standards for storage conditions, including temperature, light sensitivity, and chemical and physical stability. In addition, pharmacies serving hospitals and long-term care facilities may accept drugs for return and reuse under similar circumstances. Controlled substances may not be returned to a pharmacy except to be destroyed.

There are liability protections for entities that donate, accept, or distribute prescription drugs that have been exchanged through a drug donation program. Under the program, practitioners, pharmacists, medical facilities, drug manufacturers, and drug wholesalers may donate prescription drugs for redistribution without compensation. The drugs must meet specific packaging standards and pharmacist review requirements. Approved drugs may be distributed to any patient, but priority is given to patients who are uninsured and have an income of 200 percent of the federal poverty limit or less.

### **Summary of Engrossed Substitute Bill:**

Individual persons and their representatives are added to the types of donors who may donate unused drugs to a pharmacy for redistribution under the prescription drug donation program. Individual persons who wish to donate to the program must complete and sign a donor form, developed by the Department of Health (Department), to authorize the release and certify that the donated prescription drugs have not been opened, used, adulterated, or misbranded. A pharmacist must, in his or her professional judgment, determine that the drugs were stored under required temperature conditions using the drugs' time temperature indicator information. The term "time temperature indicator" means a device or smart label that shows the accumulated time-temperature history of a product through the entire supply chain.

The requirements that priority for the distribution of donated drugs be given to persons who are both uninsured and have an income that is at or below 200 percent of the federal poverty level are changed to remove the income standard. The term "uninsured" is defined as a person who either: (1) does not have health insurance; or (2) has health insurance, but that insurance does not include coverage for a drug that has been prescribed to the person.

Prescription drugs that require registration with the drug's manufacturer may be accepted under the prescription drug donation program and may be dispensed if the patient is registered with the manufacturer at the time of dispensing and the amount does not exceed the duration of the registration period. The liability protections that apply to drug manufacturers are clarified to expressly apply to prescriptions drugs that may only be dispensed to a patient who is registered with the drug's manufacturer.

The Department's rulemaking authority related to patient eligibility, patient priority, and notice to drug recipients is eliminated. The Department's general rulemaking authority for the prescription drug donation program is also eliminated.

The bill is named the "Cancer Can't Charitable Pharmacy Act."

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect January 1, 2017.

**Staff Summary of Public Testimony:**

(In support) Doctors and patients in the community have identified access to medication as one of the most common problems for patients. This could help many patients with high-cost drug expenses, such as acquired immune deficiency syndrome and multiple sclerosis patients. Patients are experiencing barriers in seeking access to life-saving medications due to costs. This bill will provide one more avenue for patients to access the medications that they need to live.

Patients may have completely sealed and properly stored medications that are very expensive, but inappropriate for a patient's treatment, and there is no way to return them for use by another person. Valuable medications are going unused.

This bill can minimize liability and increase access to medications and can be meaningful for some low-income patients. Thirty-eight other states have some form of a pharmaceutical donation law.

(Opposed) None.

(Other) There is concern about the liability that arises from these sorts of bills.

**Persons Testifying:** (In support) Representative Parker, prime sponsor; Melissa Johnson, Advanced Registered Nurse Practitioners United of Washington; and Kate White Tudor, Washington Academy of Physician Assistants.

(Other) Lisa Thatcher, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.