
HOUSE BILL 1047

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By Representatives Peterson, Appleton, Stanford, Robinson, Lytton, Ormsby, Senn, Jenkins, Bergquist, Frame, Gregerson, Doglio, Fey, Tharinger, Ryu, Kilduff, Macri, Hudgins, Farrell, Sawyer, and Cody

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1 AN ACT Relating to protecting the public's health by creating a
2 system for safe and secure collection and disposal of unwanted
3 medications; amending RCW 69.41.030; reenacting and amending RCW
4 42.56.270; adding a new section to chapter 69.50 RCW; adding a new
5 section to chapter 70.95 RCW; adding a new chapter to Title 69 RCW;
6 creating a new section; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. (1) Abuse, fatal
9 overdoses, and poisonings from prescription and over-the-counter
10 medicines used in the home have emerged as an epidemic in recent
11 years. Poisoning is the leading cause of unintentional injury-related
12 death in Washington, and more than ninety percent of poisoning deaths
13 are due to drug overdoses.

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

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

7 (4) The legislature therefore finds that it is in the interest of
8 public health to establish a safe and secure method for collection
9 and disposal of medicines through a drug "take-back" program operated
10 and funded by drug manufacturers.

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

14 (1) "Authorized collector" means any of the following persons or
15 entities that have entered into an agreement with a program operator
16 to collect covered drugs:

17 (a) A person or entity that is registered with the United States
18 drug enforcement administration and that qualifies under federal law
19 to modify its registration to collect controlled substances for the
20 purpose of destruction;

21 (b) A law enforcement agency; or

22 (c) An entity authorized by the department to provide an
23 alternative collection mechanism for certain covered drugs that are
24 not controlled substances, as defined in RCW 69.50.101.

25 (2) "Covered drug" means a drug from a covered entity that the
26 covered entity no longer wants and that the covered entity has
27 abandoned or discarded or intends to abandon or discard. "Covered
28 drug" includes legend drugs and nonlegend drugs, brand name and
29 generic drugs, drugs for veterinary use, and drugs in medical devices
30 and combination products, including prefilled injector products with
31 a retractable or otherwise securely covered needle.

32 (3) "Covered entity" means a state resident or other nonbusiness
33 entity. "Covered entity" does not include a business generator of
34 pharmaceutical waste, such as a hospital, clinic, health care
35 provider's office, veterinary clinic, pharmacy, or law enforcement
36 agency.

37 (4) "Covered manufacturer" means a person, corporation, or other
38 entity engaged in the manufacture of drugs sold in or into Washington
39 state. "Covered manufacturer" does not include a retailer that sells

1 a covered drug under the retailer's store label if the manufacturer
2 of the drug is identified under section 4 of this act.

3 (5) "Department" means the department of health.

4 (6) "Drop-off site" means the location where an authorized
5 collector operates a secure drop box for collecting covered drugs.

6 (7)(a) "Drug" means:

7 (i) Substances recognized as drugs in the official United States
8 pharmacopoeia, official homeopathic pharmacopoeia of the United
9 States, or official national formulary, or any supplement to any of
10 them;

11 (ii) Substances intended for use in the diagnosis, cure,
12 mitigation, treatment, or prevention of disease in human beings or
13 animals;

14 (iii) Substances other than food, minerals, or vitamins that are
15 intended to affect the structure or any function of the body of human
16 beings or animals; and

17 (iv) Substances intended for use as a component of any article
18 specified in (a)(i), (ii), or (iii) of this subsection.

19 (b) "Drug" does not include:

20 (i) Vitamins or supplements;

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

23 (iii) Cosmetics, shampoos, sunscreens, toothpaste,
24 antiperspirants, or other personal care products that are regulated
25 as both cosmetics and nonprescription drugs under the federal food,
26 drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.;

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

30 (v) Drugs that are biological products, as defined in RCW
31 69.41.110, if the producer provides a separate drug take-back
32 program;

33 (vi) Drugs that are used solely in a clinical setting; or

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

36 (8) "Drug take-back organization" means an organization
37 designated by a manufacturer or group of manufacturers to act as an
38 agent on behalf of each manufacturer to develop and implement a drug
39 take-back program.

1 (9) "Drug take-back program" or "program" means a program
2 implemented by a program operator for the collection, transportation,
3 and disposal of covered drugs.

4 (10) "Drug wholesaler" means an entity licensed as a wholesaler
5 under chapter 18.64 RCW.

6 (11) "Generic drug" means a drug that is chemically identical or
7 bioequivalent to a brand name drug in dosage form, safety, strength,
8 route of administration, quality, performance characteristics, and
9 intended use. The inactive ingredients in a generic drug need not be
10 identical to the inactive ingredients in the chemically identical or
11 bioequivalent brand name drug.

12 (12) "Legend drug" means a drug, including a controlled substance
13 under chapter 69.50 RCW, that is required by any applicable federal
14 or state law or regulation to be dispensed by prescription only or
15 that is restricted to use by practitioners only.

16 (13) "Mail-back service" means a method of collecting covered
17 drugs from covered entities by using prepaid, preaddressed mailing
18 envelopes.

19 (14) "Manufacture" has the same meaning as in RCW 18.64.011.

20 (15) "Nonlegend drug" means a drug that may be lawfully sold
21 without a prescription.

22 (16) "Pharmacy" means a place licensed as a pharmacy under
23 chapter 18.64 RCW.

24 (17) "Program operator" means a drug take-back organization,
25 covered manufacturer, or group of covered manufacturers that
26 implements or intends to implement a drug take-back program approved
27 by the department.

28 (18) "Retail pharmacy" means a place licensed as a pharmacy under
29 chapter 18.64 RCW for the retail sale and dispensing of drugs.

30 (19) "Secretary" means the secretary of health.

31 NEW SECTION. **Sec. 3.** REQUIREMENT TO PARTICIPATE IN A DRUG TAKE-
32 BACK PROGRAM. A covered manufacturer must establish and implement a
33 drug take-back program that complies with the requirements of this
34 chapter. A manufacturer that becomes a covered manufacturer after the
35 effective date of this section must, no later than six months after
36 the date on which the manufacturer became a covered manufacturer,
37 participate in an approved drug take-back program or establish and
38 implement a drug take-back program that complies with the
39 requirements of this chapter. A covered manufacturer may establish

1 and implement a drug take-back program independently, as part of a
2 group of covered manufacturers, or through membership in a drug take-
3 back organization.

4 NEW SECTION. **Sec. 4.** IDENTIFICATION OF COVERED MANUFACTURERS.

5 (1) Within sixty days of a request from the department, a drug
6 wholesaler that sells a drug in or into Washington must provide a
7 list of covered manufacturers to the department in a form agreed upon
8 with the department. A drug wholesaler must update the list upon
9 request of the department, but the department may not request that a
10 drug wholesaler update the list of covered manufacturers more than
11 once a year.

12 (2) No later than ninety days after the effective date of this
13 section, a retailer must provide written notification to the
14 department identifying the covered manufacturer from which the
15 retailer obtains a covered drug that the retailer sells under its
16 store label.

17 (3) A person or entity that receives a letter of inquiry from the
18 department regarding whether or not it is a covered manufacturer
19 under this chapter shall respond in writing no later than sixty days
20 after receipt of the letter. If the person or entity does not believe
21 it is a covered manufacturer for purposes of this chapter, it shall:
22 (a) State the basis for the belief; (b) provide a list of any drugs
23 it sells, distributes, repackages, or otherwise offers for sale
24 within the state; and (c) identify the name and contact information
25 of the manufacturer of the drugs identified under (b) of this
26 subsection.

27 (4) The department shall make available on its web site a list of
28 covered manufacturers participating in an approved drug take-back
29 program and a list of covered manufacturers that the department has
30 identified as noncompliant with this chapter.

31 NEW SECTION. **Sec. 5.** DRUG TAKE-BACK PROGRAM APPROVAL. (1) By
32 January 1, 2018, a program operator must submit a proposal for the
33 establishment and implementation of a drug take-back program to the
34 department for approval. The department shall approve a proposed
35 program if the applicant submits a completed application, the
36 proposed program meets the requirements of subsection (2) of this
37 section, and the applicant pays the appropriate fee established by
38 the department under section 12 of this act.

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

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

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

9 (c) Provide for a collection system that complies with section 6
10 of this act;

11 (d) Provide for a handling and disposal system that complies with
12 section 8 of this act;

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

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

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

21 (h) Promote the program by providing consumers, pharmacies, and
22 other entities with educational and informational materials and
23 evaluate the effectiveness of promotion, outreach, and public
24 education activities, as required by section 7 of this act;

25 (i) Demonstrate adequate funding for all administrative and
26 operational costs of the drug take-back program, with costs
27 apportioned among participating covered manufacturers according to
28 sales revenues in Washington state;

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

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

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

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

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

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

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

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

16 (iv) Find the covered manufacturer out of compliance with the
17 requirements of this chapter and take enforcement action as provided
18 in section 11 of this act.

19 (4) The program operator must initiate operation of an approved
20 drug take-back program no later than ninety days after approval of
21 the proposal by the department.

22 (5)(a) Proposed changes to an approved drug take-back program
23 that substantively alter program operations must have prior written
24 approval of the department. A program operator must submit to the
25 department such a proposed change in writing at least thirty days
26 before the change is scheduled to occur. Changes requiring prior
27 approval of the department include changes to participating covered
28 manufacturers, collection methods, achievement of the service
29 convenience goal described in section 6 of this act, policies and
30 procedures for handling covered drugs, education and promotion
31 methods, and selection of disposal facilities.

32 (b) For changes to a drug take-back program that do not
33 substantively alter program operations, a program operator must
34 notify the department at least fifteen days before implementing the
35 change. Changes that do not substantively alter program operations
36 include changes to drop-off site locations, methods for scheduling
37 and locating periodic collection events, and methods for distributing
38 prepaid, preaddressed mailers.

39 (c) A program operator must notify the department of any changes
40 to the official point of contact for the program no later than

1 fifteen days after the change. A program operator must notify the
2 department of any changes in ownership or contact information for
3 participating covered manufacturers no later than thirty days after
4 such change.

5 (6) No later than four years after a drug take-back program
6 initiates operations, and every four years thereafter, the program
7 operator must submit an updated proposal to the department describing
8 any substantive changes to program elements described in subsection
9 (2) of this section. The department shall approve or reject the
10 updated proposal using the process described in subsection (3) of
11 this section.

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

15 NEW SECTION. **Sec. 6.** COLLECTION SYSTEM. (1)(a) At least one
16 hundred twenty days prior to submitting a proposal under section 5 of
17 this act, a program operator must notify potential authorized
18 collectors of the opportunity to serve as an authorized collector for
19 the proposed drug take-back program. A program operator must commence
20 good faith negotiations with a potential authorized collector no
21 later than thirty days after the potential authorized collector
22 expresses interest in participating in a proposed program.

23 (b) A person or entity may serve as an authorized collector for a
24 drug take-back program voluntarily or in exchange for compensation,
25 but nothing in this chapter requires a person or entity to serve as
26 an authorized collector.

27 (c) A drug take-back program must include as an authorized
28 collector any retail pharmacy, hospital or clinic with an on-site
29 pharmacy, or law enforcement agency that offers to participate in the
30 program without compensation and meets the requirements of subsection
31 (2) of this section. Such a pharmacy, hospital, clinic, or law
32 enforcement agency must be included as an authorized collector in the
33 program no later than ninety days after receiving the offer to
34 participate.

35 (2)(a) A drop-off site must accept all covered drugs from covered
36 entities during the hours that the authorized collector is normally
37 open for business with the public.

38 (b) A drop-off site located at a long-term care facility may only
39 accept covered drugs from individuals who reside or have resided at

1 the facility, pursuant to 21 C.F.R. Sec. 1317.80, as it exists on the
2 effective date of this section.

3 (c) A drop-off site must use secure drop boxes in compliance with
4 state and federal law, including any applicable on-site storage and
5 collection standards adopted by rule pursuant to chapter 70.95 or
6 70.105 RCW and United States drug enforcement administration
7 regulations. The program operator and authorized collectors must
8 ensure that secure drop boxes are emptied and serviced as often as
9 necessary to avoid reaching capacity. Secure drop box signage must
10 prominently display a toll-free telephone number and web site for the
11 program so that members of the public may provide feedback on
12 collection activities.

13 (d) An authorized collector must comply with applicable
14 provisions of chapters 70.95 and 70.105 RCW, including rules adopted
15 pursuant to those chapters that establish collection and
16 transportation standards, and federal laws and regulations governing
17 the handling of covered drugs, including United States drug
18 enforcement administration regulations.

19 (3)(a) A drug take-back program's collection system must be safe,
20 secure, and convenient on an ongoing, year-round basis and must
21 provide equitable access for residents across the state.

22 (b) In establishing and operating a collection system, a program
23 operator must give preference to locating drop-off sites at retail
24 pharmacies, hospitals or clinics with on-site pharmacies, and law
25 enforcement agencies.

26 (c)(i) Each population center must have a minimum of one drop-off
27 site, plus one additional drop-off site for every twenty thousand
28 residents of the city or town located within the population center.
29 Drop-off sites must be geographically distributed to provide
30 reasonably convenient and equitable access to all residents of the
31 population center.

32 (ii) On islands and in areas outside of population centers, a
33 drop-off site must be located at the site of each potential
34 authorized collector that is regularly open to the public, unless the
35 program operator demonstrates to the satisfaction of the department
36 that a potential authorized collector is unqualified or unwilling to
37 participate in the drug take-back program.

38 (iii) For purposes of this section, "population center" means a
39 city or town and the area within a ten-mile radius from the center of
40 the city or town.

1 (d) A program operator must hold periodic collection events to
2 supplement service to any area of the state that is underserved by
3 drop-off sites, as determined by the department, in consultation with
4 the local health jurisdiction. The program operator, in consultation
5 with the department, local law enforcement, the local health
6 jurisdiction, and the local community, must determine the frequency
7 and location of these collections events, to be held at least twice a
8 year, unless otherwise determined through consultation with the local
9 community. The program must arrange periodic collection events in
10 advance with local law enforcement agencies and conduct periodic
11 collection events in compliance with United States drug enforcement
12 administration regulations and protocols and applicable state laws.

13 (e) Upon request, a drug take-back program must provide mail-back
14 services free of charge to covered entities. A drug take-back program
15 must permit covered entities to request mail-back services through
16 the program's web site or toll-free telephone number.

17 (f) The program operator must provide alternative collection
18 methods for any covered drugs, other than controlled substances, that
19 cannot be accepted or commingled with other covered drugs in secure
20 drop boxes, through mail-back services, or at periodic collection
21 events. The department shall review and approve of any alternative
22 collection methods prior to their implementation.

23 NEW SECTION. **Sec. 7.** DRUG TAKE-BACK PROGRAM PROMOTION. (1) A
24 drug take-back program must develop and provide a system of
25 promotion, education, and public outreach about the safe storage and
26 secure collection of covered drugs. This system may include signage,
27 written materials to be provided at the time of purchase or delivery
28 of covered drugs, and advertising or other promotional materials. At
29 a minimum, each program must:

30 (a) Promote the safe storage of legend drugs and nonlegend drugs
31 by residents before secure disposal through a drug take-back program;

32 (b) Discourage residents from disposing of covered drugs in solid
33 waste collection, sewer, or septic systems;

34 (c) Promote the use of the drug take-back program so that where
35 and how to return covered drugs is widely understood by residents,
36 pharmacists, retailers of covered drugs, health care facilities and
37 providers, veterinarians, and veterinary hospitals;

38 (d) Establish a toll-free telephone number and web site
39 publicizing collection options and drop-off sites and discouraging

1 improper disposal practices for covered drugs, such as flushing them
2 or placing them in the garbage;

3 (e) Prepare educational and outreach materials that: Promote safe
4 storage of covered drugs; discourage the disposal of covered drugs in
5 solid waste collection, sewer, or septic systems; and describe how to
6 return covered drugs to the drug take-back program. The materials
7 must use plain language and explanatory images to make collection
8 services and discouraged disposal practices readily understandable to
9 all residents, including residents with limited English proficiency;

10 (f) Disseminate the educational and outreach materials described
11 in (e) of this subsection to pharmacies, health care facilities, and
12 other interested parties for dissemination to covered entities;

13 (g) Work with authorized collectors to develop a readily
14 recognizable, consistent design of drop boxes, as well as clear,
15 standardized instructions for covered entities on the use of drop
16 boxes. The department may provide guidance to program operators on
17 the development of the instructions and design;

18 (h) Conduct a survey of covered entities and a survey of
19 pharmacists, health care providers, and veterinarians who interact
20 with covered entities on the use of medicines after the first full
21 year of operation of the drug take-back program, and again every two
22 years thereafter. Survey questions must: Measure consumer awareness
23 of the drug take-back program; assess the extent to which drop-off
24 sites and other collection methods are convenient and easy to use;
25 and assess knowledge and attitudes about risks of abuse, poisonings,
26 and overdoses from drugs used in the home. Draft survey questions
27 must be submitted to the department for review and comment no later
28 than thirty days prior to initiation of a survey. The drug take-back
29 program must report all data and the results of the surveys to the
30 department and make the results available on the program's web site
31 no later than ninety days after the end of the survey period; and

32 (i) Annually evaluate the effectiveness of its promotion,
33 outreach, and public education, and include this evaluation in its
34 annual report required by section 10 of this act.

35 (2) If more than one drug take-back program is approved by the
36 department, the programs must coordinate their promotional activities
37 to ensure that all state residents can easily identify, understand,
38 and access the collection services provided by any drug take-back
39 program. Coordination efforts must include providing residents with a

1 single toll-free telephone number and single web site to access
2 information about collection services for every approved program.

3 (3) Pharmacies and other entities that sell medication in the
4 state are encouraged to promote secure disposal of covered drugs
5 through the use of one or more approved drug take-back programs. Upon
6 request, a pharmacy must provide materials explaining the use of
7 approved drug take-back programs to its customers.

8 (4) The department, the health care authority, the department of
9 social and health services, the department of ecology, local health
10 jurisdictions, and any other state or local government agency that is
11 responsible for health, solid waste management, and wastewater
12 treatment shall, through their standard educational methods, promote
13 safe storage of prescription and nonprescription drugs by covered
14 entities, secure disposal of covered drugs through a drug take-back
15 program, and the toll-free telephone number and web site for approved
16 drug take-back programs.

17 NEW SECTION. **Sec. 8.** DISPOSAL AND HANDLING OF COVERED DRUGS.

18 (1) Covered drugs collected under a drug take-back program must be
19 disposed of at a permitted hazardous waste disposal facility that
20 meets the requirements of 40 C.F.R. parts 264 and 265, as they exist
21 on the effective date of this section.

22 (2) If use of a hazardous waste disposal facility described in
23 subsection (1) of this section is unfeasible based on cost,
24 logistics, or other considerations, the department, in consultation
25 with the department of ecology, may grant approval for program
26 operators participating in a drug take-back program to dispose of
27 some or all collected covered drugs at a permitted large municipal
28 waste combustor facility that meets the requirements of 40 C.F.R.
29 parts 60 and 62, as they exist on the effective date of this section.

30 (3) A program operator may petition the department for approval
31 to use final disposal technologies or processes that provide superior
32 environmental and human health protection than that provided by the
33 technologies described in subsections (1) and (2) of this section, or
34 equivalent protection at less cost. In reviewing a petition under
35 this subsection, the department shall take into consideration
36 regulations or guidance issued by the United States environmental
37 protection agency on the disposal of pharmaceutical waste. The
38 department, in consultation with the department of ecology, shall
39 approve a disposal petition under this section if the disposal

1 technology or processes described in the petition provides equivalent
2 or superior protection in each of the following areas:

3 (a) Monitoring of any emissions or waste;

4 (b) Worker health and safety;

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

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

8 (4) If a drug take-back program encounters a safety or security
9 problem during collection, transportation, or disposal of covered
10 drugs, the program operator must notify the department as soon as
11 practicable after encountering the problem.

12 NEW SECTION. **Sec. 9.** PROGRAM FUNDING. (1) A covered
13 manufacturer or group of covered manufacturers must pay all
14 administrative and operational costs associated with establishing and
15 implementing the drug take-back program in which they participate.
16 Such administrative and operational costs include, but are not
17 limited to: Collection and transportation supplies for each drop-off
18 site; purchase of secure drop boxes for each drop-off site; ongoing
19 maintenance or replacement of secure drop boxes when requested by
20 authorized collectors; prepaid, preaddressed mailers; compensation of
21 authorized collectors, if applicable; operation of periodic
22 collection events, including the cost of law enforcement staff time;
23 transportation of all collected covered drugs to final disposal;
24 environmentally sound disposal of all collected covered drugs in
25 compliance with section 8 of this act; and program promotion and
26 outreach.

27 (2) A program operator or authorized collector may not charge:

28 (a) A point-of-sale fee to consumers to recoup the costs of a
29 drug take-back program; or

30 (b) A point-of-collection fee at the time covered drugs are
31 collected from covered entities.

32 NEW SECTION. **Sec. 10.** ANNUAL PROGRAM REPORT. (1) By March 1,
33 2019, and annually thereafter, a program operator must submit to the
34 department a report describing implementation of the drug take-back
35 program during the previous calendar year. The report must include:

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

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

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

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

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

16 (f) The results of the program's surveys of covered entities and
17 pharmacists, health care providers, and veterinarians;

18 (g) A description of how collected packaging was recycled to the
19 extent feasible;

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

24 (i) The program's annual expenditures, itemized by program
25 category.

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

28 NEW SECTION. **Sec. 11.** ENFORCEMENT AND PENALTIES. (1) The
29 department may audit or inspect the activities and records of a drug
30 take-back program to determine compliance with this chapter or
31 investigate a complaint.

32 (2)(a) The department shall send a written notice to a covered
33 manufacturer that fails to participate in a drug take-back program as
34 required by this chapter. The notice must provide a warning regarding
35 the penalties for violation of this chapter.

36 (b) A covered manufacturer that receives a notice under this
37 subsection (2) may be assessed a penalty if, sixty days after receipt
38 of the notice, the covered manufacturer continues to sell a covered

1 drug in or into the state without participating in a drug take-back
2 program approved under this chapter.

3 (3)(a) The department may send a program operator a written
4 notice warning of the penalties for noncompliance with this chapter
5 if it determines that the program operator's drug take-back program
6 is in violation of this chapter or does not conform to the proposal
7 approved by the department. The department may assess a penalty on
8 the program operator and participating covered manufacturers if the
9 program does not come into compliance by thirty days after receipt of
10 the notice.

11 (b) The department may immediately suspend operation of a drug
12 take-back program and assess a penalty if it determines that the
13 program is in violation of this chapter and the violation creates a
14 condition that, in the judgment of the department, constitutes an
15 immediate hazard to the public or the environment.

16 (4) In enforcing the requirements of this chapter, the department
17 may:

18 (a) Require an informal administrative conference;

19 (b) Require a person or entity to engage in or refrain from
20 engaging in certain activities; and

21 (c) In accordance with RCW 43.70.095, assess a civil fine of up
22 to two thousand dollars. Each day upon which a violation occurs or is
23 permitted to continue constitutes a separate violation. In
24 determining the appropriate amount of the fine, the department shall
25 consider the extent of harm caused by the violation, the nature and
26 persistence of the violation, the frequency of past violations, any
27 action taken to mitigate the violation, and the financial burden to
28 the entity in violation.

29 NEW SECTION. **Sec. 12.** DEPARTMENT FEE. (1)(a) Beginning April 1,
30 2018, and annually thereafter, the department shall: Determine its
31 costs for the administration, oversight, and enforcement of the
32 requirements of this chapter; set the annual fee for the period of
33 July 1st through June 30th at a level sufficient to recover the costs
34 associated with administration, oversight, and enforcement; and
35 notify each program operator of the proposed fee. If there is more
36 than one program operator implementing a drug take-back program in
37 Washington, the department shall divide the fee equally between
38 programs. The department shall make the proposed annual fee, along

1 with an accounting of the costs, available for public review and
2 comment for at least thirty days.

3 (b) The department shall collect annual fees from each program
4 operator by June 30, 2018, and annually thereafter.

5 (2) All fees collected under this section must be deposited in
6 the secure drug take-back program account established in section 13
7 of this act.

8 NEW SECTION. **Sec. 13.** SECURE DRUG TAKE-BACK PROGRAM ACCOUNT.
9 The secure drug take-back program account is created in the state
10 treasury. All receipts received by the department under this chapter
11 must be deposited in the account. Moneys in the account may be spent
12 only after appropriation. Expenditures from the account may be used
13 by the department only for administering and enforcing this chapter.

14 NEW SECTION. **Sec. 14.** ANTITRUST IMMUNITY. The activities
15 authorized by this chapter require collaboration among covered
16 manufacturers. These activities will enable safe and secure
17 collection and disposal of covered drugs in Washington state and are
18 therefore in the best interest of the public. The benefits of
19 collaboration, together with active state supervision, outweigh
20 potential adverse impacts. Therefore, the legislature intends to
21 exempt from state antitrust laws, and provide immunity through the
22 state action doctrine from federal antitrust laws, activities that
23 are undertaken, reviewed, and approved by the department pursuant to
24 this chapter that might otherwise be constrained by such laws. The
25 legislature does not intend and does not authorize any person or
26 entity to engage in activities not provided for by this chapter, and
27 the legislature neither exempts nor provides immunity for such
28 activities.

29 NEW SECTION. **Sec. 15.** FEDERAL LAW. This chapter is void if a
30 federal law, or a combination of federal laws, takes effect that
31 establishes a national program for the collection of covered drugs
32 that substantially meets the intent of this chapter, including the
33 creation of a funding mechanism for collection, transportation, and
34 proper disposal of all covered drugs in the United States.

35 NEW SECTION. **Sec. 16.** LOCAL LAWS. (1) This chapter does not
36 preempt a county from enforcing a grandfathered ordinance.

1 (2) If a county determines that a covered manufacturer is in
2 compliance with its grandfathered ordinance, the department shall
3 find the covered manufacturer in compliance with the requirements of
4 this chapter with respect to that county.

5 (3) For purposes of this section, "grandfathered ordinance" means
6 a pharmaceutical product stewardship or drug take-back ordinance
7 that: (a) Is in effect on the effective date of this section; and (b)
8 the department determines meets or exceeds the requirements of this
9 chapter with respect to safe and secure collection and disposal of
10 unwanted medicines from residents, including the types of drugs
11 covered by the program, the convenience of the collection system for
12 residents, and required promotion of the program.

13 NEW SECTION. **Sec. 17.** PUBLIC DISCLOSURE. Proprietary
14 information submitted to the department under this chapter is exempt
15 from public disclosure under RCW 42.56.270. The department may use
16 and disclose such information in summary or aggregated form that does
17 not directly or indirectly identify financial, production, or sales
18 data of an individual covered manufacturer or drug take-back
19 organization.

20 NEW SECTION. **Sec. 18.** RULE MAKING. The department shall adopt
21 any rules necessary to implement and enforce this chapter.

22 NEW SECTION. **Sec. 19.** REPORT TO LEGISLATURE. By November 15,
23 2018, and biennially thereafter, the department shall submit a report
24 to the legislature regarding the status of approved drug take-back
25 programs, as well as any recommendations for statutory changes. The
26 report must evaluate the secure medicine collection and disposal
27 system established by this chapter and provide any recommendations
28 for legislation.

29 **Sec. 20.** RCW 42.56.270 and 2016 sp.s. c 9 s 3, 2016 sp.s. c 8 s
30 1, and 2016 c 178 s 1 are each reenacted and amended to read as
31 follows:

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

34 (1) Valuable formulae, designs, drawings, computer source code or
35 object code, and research data obtained by any agency within five

1 years of the request for disclosure when disclosure would produce
2 private gain and public loss;

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

8 (3) Financial and commercial information and records supplied by
9 private persons pertaining to export services provided under chapters
10 43.163 and 53.31 RCW, and by persons pertaining to export projects
11 under RCW 43.23.035;

12 (4) Financial and commercial information and records supplied by
13 businesses or individuals during application for loans or program
14 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
15 43.168 RCW, or during application for economic development loans or
16 program services provided by any local agency;

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

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

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

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

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

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

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

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

13 (12)(a) When supplied to and in the records of the department of
14 commerce:

15 (i) Financial and proprietary information collected from any
16 person and provided to the department of commerce pursuant to RCW
17 43.330.050(8); and

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

25 (b) When developed by the department of commerce based on
26 information as described in (a)(i) of this subsection, any work
27 product is not exempt from disclosure;

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

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

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

38 (14) Financial, commercial, operations, and technical and
39 research information and data submitted to or obtained by the life
40 sciences discovery fund authority in applications for, or delivery

1 of, grants under chapter 43.350 RCW, to the extent that such
2 information, if revealed, would reasonably be expected to result in
3 private loss to the providers of this information;

4 (15) Financial and commercial information provided as evidence to
5 the department of licensing as required by RCW 19.112.110 or
6 19.112.120, except information disclosed in aggregate form that does
7 not permit the identification of information related to individual
8 fuel licensees;

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

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

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

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

25 (19) Information gathered under chapter 19.85 RCW or RCW
26 34.05.328 that can be identified to a particular business;

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

35 (21) Market share data submitted by a manufacturer under RCW
36 70.95N.190(4);

37 (22) Financial information supplied to the department of
38 financial institutions or to a portal under RCW 21.20.883, when filed
39 by or on behalf of an issuer of securities for the purpose of
40 obtaining the exemption from state securities registration for small

1 securities offerings provided under RCW 21.20.880 or when filed by or
2 on behalf of an investor for the purpose of purchasing such
3 securities;

4 (23) Unaggregated or individual notices of a transfer of crude
5 oil that is financial, proprietary, or commercial information,
6 submitted to the department of ecology pursuant to RCW
7 90.56.565(1)(a), and that is in the possession of the department of
8 ecology or any entity with which the department of ecology has shared
9 the notice pursuant to RCW 90.56.565;

10 (24) Financial institution and retirement account information,
11 and building security plan information, supplied to the liquor and
12 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
13 69.50.345, when filed by or on behalf of a licensee or prospective
14 licensee for the purpose of obtaining, maintaining, or renewing a
15 license to produce, process, transport, or sell marijuana as allowed
16 under chapter 69.50 RCW; ((and))

17 (25) Marijuana transport information, vehicle and driver
18 identification data, and account numbers or unique access identifiers
19 issued to private entities for traceability system access, submitted
20 by an individual or business to the liquor and cannabis board under
21 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
22 69.50.345 for the purpose of marijuana product traceability.
23 Disclosure to local, state, and federal officials is not considered
24 public disclosure for purposes of this section; ((and))

25 (26) Financial and commercial information submitted to or
26 obtained by the retirement board of any city that is responsible for
27 the management of an employees' retirement system pursuant to the
28 authority of chapter 35.39 RCW, when the information relates to
29 investments in private funds, to the extent that such information, if
30 revealed, would reasonably be expected to result in loss to the
31 retirement fund or to result in private loss to the providers of this
32 information except that (a) the names and commitment amounts of the
33 private funds in which retirement funds are invested and (b) the
34 aggregate quarterly performance results for a retirement fund's
35 portfolio of investments in such funds are subject to disclosure;
36 ((and))

37 (27) Proprietary financial, commercial, operations, and technical
38 and research information and data submitted to or obtained by the
39 liquor and cannabis board in applications for marijuana research
40 licenses under RCW 69.50.372, or in reports submitted by marijuana

1 research licensees in accordance with rules adopted by the liquor and
2 cannabis board under RCW 69.50.372; and

3 (28) Proprietary information filed with the department of health
4 under chapter 69.--- RCW (the new chapter created in section 24 of
5 this act).

6 **Sec. 21.** RCW 69.41.030 and 2016 c 148 s 11 are each amended to
7 read as follows:

8 (1) It shall be unlawful for any person to sell, deliver, or
9 possess any legend drug except upon the order or prescription of a
10 physician under chapter 18.71 RCW, an osteopathic physician and
11 surgeon under chapter 18.57 RCW, an optometrist licensed under
12 chapter 18.53 RCW who is certified by the optometry board under RCW
13 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
14 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
15 18.92 RCW, a commissioned medical or dental officer in the United
16 States armed forces or public health service in the discharge of his
17 or her official duties, a duly licensed physician or dentist employed
18 by the veterans administration in the discharge of his or her
19 official duties, a registered nurse or advanced registered nurse
20 practitioner under chapter 18.79 RCW when authorized by the nursing
21 care quality assurance commission, a pharmacist licensed under
22 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
23 or protocols established under RCW 18.64.011 and authorized by the
24 commission and approved by a practitioner authorized to prescribe
25 drugs, an osteopathic physician assistant under chapter 18.57A RCW
26 when authorized by the board of osteopathic medicine and surgery, a
27 physician assistant under chapter 18.71A RCW when authorized by the
28 medical quality assurance commission, or any of the following
29 professionals in any province of Canada that shares a common border
30 with the state of Washington or in any state of the United States: A
31 physician licensed to practice medicine and surgery or a physician
32 licensed to practice osteopathic medicine and surgery, a dentist
33 licensed to practice dentistry, a podiatric physician and surgeon
34 licensed to practice podiatric medicine and surgery, a licensed
35 advanced registered nurse practitioner, a licensed physician
36 assistant, a licensed osteopathic physician assistant, or a
37 veterinarian licensed to practice veterinary medicine: PROVIDED,
38 HOWEVER, That the above provisions shall not apply to sale, delivery,
39 or possession by drug wholesalers or drug manufacturers, or their

1 agents or employees, or to any practitioner acting within the scope
2 of his or her license, or to a common or contract carrier or
3 warehouse operator, or any employee thereof, whose possession of any
4 legend drug is in the usual course of business or employment:
5 PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW
6 shall prevent a family planning clinic that is under contract with
7 the health care authority from selling, delivering, possessing, and
8 dispensing commercially prepackaged oral contraceptives prescribed by
9 authorized, licensed health care practitioners: PROVIDED FURTHER,
10 That nothing in this chapter prohibits possession or delivery of
11 legend drugs by an authorized collector or other person participating
12 in the operation of a drug take-back program authorized in chapter
13 69.--- RCW (the new chapter created in section 24 of this act).

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

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

19 NEW SECTION. Sec. 22. A new section is added to chapter 69.50
20 RCW to read as follows:

21 It is not a violation of this chapter to possess or deliver a
22 controlled substance in compliance with chapter 69.--- RCW (the new
23 chapter created in section 24 of this act).

24 NEW SECTION. Sec. 23. A new section is added to chapter 70.95
25 RCW to read as follows:

26 An authorized collector regulated under chapter 69.--- RCW (the
27 new chapter created in section 24 of this act) is not required to
28 obtain a permit under RCW 70.95.170 unless the authorized collector
29 is required to obtain a permit under RCW 70.95.170 as a consequence
30 of activities that are not directly associated with the collection
31 facility's activities under chapter 69.--- RCW (the new chapter
32 created in section 24 of this act).

33 NEW SECTION. Sec. 24. Sections 2 through 19 of this act
34 constitute a new chapter in Title 69 RCW.

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