
SUBSTITUTE HOUSE BILL 1161

State of Washington

67th Legislature

2021 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Peterson, Davis, Pollet, and Thai)

READ FIRST TIME 02/05/21.

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

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

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

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

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

1 homes increase risks of drug abuse, overdoses, and preventable
2 poisonings.

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

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

14 NEW SECTION. **Sec. 2.** (1) The legislature finds that in 2018,
15 the legislature passed Engrossed Substitute House Bill No. 1047,
16 which required drug manufacturers that sell drugs into Washington to
17 operate a drug take-back program to collect and dispose of
18 prescription and over-the-counter drugs. Further, the legislature
19 finds that there is uncertainty about whether, under current law,
20 more than one drug take-back program may operate.

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

24 **Sec. 3.** RCW 69.48.050 and 2018 c 196 s 5 are each amended to
25 read as follows:

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

35 (2) To be approved by the department, a proposed drug take-back
36 program, independent of any other operating program, must:

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

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

5 (c) Provide for a collection system that complies with RCW
6 69.48.060;

7 (d) Ensure that physical collection sites are the primary method
8 of collection across the state and that methods of supplementing
9 physical collection site service are the secondary methods for
10 collection as required by RCW 69.48.060(3) (b) through (d). A drug
11 take-back program's use of supplemental mail-back distribution
12 locations or periodic collection events in any areas underserved by
13 physical collection sites may provide collection services to no more
14 than 15 percent of the state's residents;

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

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

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

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

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

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

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

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

38 (3) (a) No later than one hundred twenty days after receipt of a
39 drug take-back program proposal, the department shall either approve
40 or reject the proposal in writing to the applicant. The department

1 may extend the deadline for approval or rejection of a proposal for
2 good cause. If the department rejects the proposal, it shall provide
3 the reason for rejection.

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

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

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

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

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

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

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

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

35 (b) For changes to a drug take-back program that do not
36 substantially alter program operations, a program operator must
37 notify the department at least seven days before implementing the
38 change. Changes that do not substantially alter program operations
39 include changes to collection site locations, methods for scheduling

1 and locating periodic collection events, and methods for distributing
2 prepaid, preaddressed mailers.

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

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

16 (7)(a) On July 1, 2021, the department will begin the review of
17 new proposals received by that date from entities seeking to become a
18 program operator.

19 (b) Beginning July 1, 2024, and every four years thereafter, the
20 department will review new proposals from entities seeking to become
21 a program operator.

22 (c) The department shall approve a proposal if it meets the
23 requirements in subsection (2) of this section and the applicant pays
24 the appropriate fee established by the department under RCW
25 69.48.120. The department must approve or reject proposals received
26 using the process provided in subsection (3) of this section.

27 (8)(a) If there is a single approved drug take-back program at
28 any time and that program operator intends to leave the program for
29 any reason, participating manufacturers must find a new entity to
30 take over operations of the existing program without a break in
31 program services. The new entity may not make changes to the
32 operations of the approved program, which must be consistent with the
33 proposal as it was approved by the department under this section, or
34 each covered manufacturer or group of covered manufacturers must
35 identify a new program operator to develop a new program proposal.
36 The department must accept new proposals from potential program
37 operators for a minimum of four months from the date the department
38 is notified of the program operator intending to cease operations, or
39 until a proposal is approved by the department. The department may
40 approve a proposal if it meets the requirements in subsection (2) of

1 this section and the applicant pays the appropriate fee established
2 by the department under RCW 69.48.120. The department must approve or
3 reject proposals received using the process described in subsection
4 (3) of this section.

5 (b) If there is a single approved drug take-back program, and
6 that program operator leaves the program and participating
7 manufacturers do not identify a program operator to take over the
8 approved program as provided in (a) of this subsection, all covered
9 manufacturers must participate in a new approved drug take-back
10 program as soon as one is approved.

11 (9) If there is more than one approved drug take-back program,
12 and a program operator for a drug take-back program leaves the
13 program for any reason and the covered manufacturers participating in
14 that program fail to identify a new entity to take over operations of
15 the existing program without a break in program services as described
16 in subsection (8)(a) of this section, those manufacturers must
17 immediately join an existing approved drug take-back program.

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

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

27 (12) The single website and single toll-free telephone number
28 required under RCW 69.48.070(2) must present all available collection
29 sites, mail-back distribution locations, and take-back events to
30 ensure residents are able to access the most convenient method of
31 collection, regardless of the program operator, and must manage all
32 requests for prepaid, preaddressed mailing envelopes.

33 (13)(a) All program operators must collaborate to ensure that all
34 state residents can easily identify, understand, and access services
35 provided by any approved drug take-back program and ensure all drug
36 take-back programs are harmonized to present a consistent statewide
37 drug take-back system for residents. The department may identify or
38 clarify in rule additional requirements for coordination or
39 performance amongst program operators, if necessary, to ensure smooth
40 operation of the drug take-back program. Requirements may include,

1 but are not limited to: Consistent drop box appearance and signage;
2 consistent messaging in education and outreach; and consistent
3 metrics included in operator annual reports as required in RCW
4 69.48.100 to ensure the department can accurately analyze the data.

5 (b) Failure to comply with these requirements may result in
6 enforcement action against a program operator as authorized under RCW
7 69.48.110.

8 **Sec. 4.** RCW 69.48.120 and 2018 c 196 s 12 are each amended to
9 read as follows:

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

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

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

31 (d) The annual fee set by the department shall be evenly split
32 amongst each approved program operator.

33 (e) The department shall collect annual operating fees from each
34 program operator by October 1, 2019, and annually thereafter.

35 (f) Between the effective date of this section and January 1,
36 2024, the department shall collect a one-time fee of \$30,000 for
37 review of proposals from each potential program operator applicant as
38 provided in RCW 69.48.050.

1 (2) All fees collected under this section must be deposited in
2 the secure drug take-back program account established in RCW
3 69.48.130.

4 **Sec. 5.** RCW 43.131.423 and 2018 c 196 s 26 are each amended to
5 read as follows:

6 The authorization for drug take-back programs created in chapter
7 196, Laws of 2018 and chapter . . . , Laws of 2021 (sections 1 through
8 4 of this act) shall be terminated on January 1, 2029, as provided in
9 RCW 43.131.424.

10 **Sec. 6.** RCW 43.131.424 and 2018 c 196 s 27 are each amended to
11 read as follows:

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

- 14 (1) RCW 69.48.010 and 2021 c . . . s 1 (section 1 of this act) &
15 2018 c 196 s 1;
- 16 (2) RCW 69.48.020 and 2018 c 196 s 2;
- 17 ~~((2))~~ (3) RCW 69.48.030 and 2018 c 196 s 3;
- 18 ~~((3))~~ (4) RCW 69.48.040 and 2018 c 196 s 4;
- 19 ~~((4))~~ (5) RCW 69.48.050 and 2021 c . . . s 3 (section 3 of this
20 act) & 2018 c 196 s 5;
- 21 ~~((5))~~ (6) RCW 69.48.060 and 2018 c 196 s 6;
- 22 ~~((6))~~ (7) RCW 69.48.070 and 2018 c 196 s 7;
- 23 ~~((7))~~ (8) RCW 69.48.080 and 2018 c 196 s 8;
- 24 ~~((8))~~ (9) RCW 69.48.090 and 2018 c 196 s 9;
- 25 ~~((9))~~ (10) RCW 69.48.100 and 2018 c 196 s 10;
- 26 ~~((10))~~ (11) RCW 69.48.110 and 2018 c 196 s 11;
- 27 ~~((11))~~ (12) RCW 69.48.120 and 2021 c . . . s 4 (section 4 of
28 this act) & 2018 c 196 s 12;
- 29 ~~((12))~~ (13) RCW 69.48.130 and 2018 c 196 s 13;
- 30 ~~((13))~~ (14) RCW 69.48.140 and 2018 c 196 s 14;
- 31 ~~((14))~~ (15) RCW 69.48.150 and 2018 c 196 s 15;
- 32 ~~((15))~~ (16) RCW 69.48.160 and 2018 c 196 s 16;
- 33 ~~((16))~~ (17) RCW 69.48.170 and 2018 c 196 s 17;
- 34 ~~((17))~~ (18) RCW 69.48.180 and 2018 c 196 s 18;
- 35 ~~((18))~~ (19) RCW 69.48.190 and 2018 c 196 s 19; and
- 36 ~~((19))~~ (20) RCW 69.48.200 and 2018 c 196 s 20.

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