

SENATE BILL REPORT

SB 5234

As Reported by Senate Committee On:
Health & Long-Term Care, February 7, 2011

Title: An act relating to providing safe collection and disposal of unwanted drugs from residential sources through a producer-provided and funded product stewardship program.

Brief Description: Creating a statewide program for the collection, transportation, and disposal of unwanted medicines.

Sponsors: Senators Kline, Swecker, Keiser, Rockefeller, Shin, Conway, Pridemore, Ranker, Pflug, Nelson, Chase, Kohl-Welles, Haugen, White, Regala, Murray and Fraser.

Brief History:

Committee Activity: Health & Long-Term Care: 1/27/11, 2/07/11 [DPS, DNP].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5234 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline, Murray, Pflug and Pridemore.

Minority Report: Do not pass.

Signed by Senators Becker, Ranking Minority Member; Carrell and Parlette.

Staff: Kathleen Buchli (786-7488)

Background: Most prescription drugs and over-the-counter medications used in households are disposed of with household trash or down the drain into a sewer or septic system. This provides an opportunity for accidental drug exposure and drug abuse, and places drugs where they may enter the water and soil.

The Board of Pharmacy (Board) within the Washington Department of Health (DOH), the U.S. Drug Enforcement Administration (DEA), and the Washington Department of Ecology regulate pharmaceutical waste in Washington. Efforts have been made in recent years by local government and nonprofit groups to address the issue of proper drug disposal. In September 2010, the DEA hosted the National Take-Back Day initiative which involved more than 4,000 take-back sites nationwide, included participation of almost 3,000 state and

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local law enforcement agencies, and resulted in the collection of more than 121 tons of legend drugs for disposal.

In October 2010, the federal Secure and Responsible Drug Disposal Act became law. That act directs the U.S. Attorney General to issue regulations governing the transfer of controlled substances for disposal to prevent diversion. Long-term care facilities will also be permitted to dispose of controlled substances on behalf of their patients or former patients.

Summary of Bill (Recommended Substitute): The Medicine Return Corporation (Corporation) is established to finance and operate a product stewardship program for the collection, transportation, and disposal of unwanted legend and non-legend drugs from residential sources, including controlled substances, brand name drugs, and generic drugs. The Corporation will be managed by a board of directors whose membership consists of representatives of producers whose drugs are sold in the state and four members of the Legislature who will serve as ex officio, non-voting members. The Corporation must incorporate as a nonprofit corporation and meetings of the board are subject to the Open Public Meetings Act as well as the Public Disclosure Act. Producer information is not subject to public disclosure. The Corporation must develop a product stewardship program to be approved by the Board and which must be in effect by January 1, 2014.

The product stewardship program must provide for a collection system that protects patient information; meet the needs of rural and urban areas; include one drop-off collection site in each county and one drop-off location in all cities with a population of 10,000 or more; provide for a mail-in system if drop-off collection sites cannot be arranged; address a handling and disposal system, including identification of and contract information for collectors, transporters, and waste disposal facilities; require that drugs be disposed of at a hazardous waste disposal facility; use existing providers of waste pharmaceutical services; provide for covered drugs to be separated from their packaging to reduce transportation and disposal costs and recycling; track collected drugs through to final disposal; provide for public education; and include contact information for participating drug producers.

Administrative and operational costs of the Corporation must be paid by drug producers and apportioned among those producers selling covered products in the state; however, producers may not impose a visible fee on consumers. The plan for apportionment must be approved by the Board. Administrative and operational costs are limited to \$2.5 million per year and include secure collection containers; collection and transportation supplies; mailers if a mail-back system is developed; transportation to final disposal; environmentally sound disposal; program promotion; state agency oversight; and administrative costs. DOH may adopt fees to recover expenses incurred by the Board which are to be paid by the Corporation.

Collectors may include law enforcement, pharmacies, hospitals, and other relevant public or private entities. The Corporation may provide incentives to collectors but no one is required to be a collector.

The Corporation must annually report to the Board on the program's activities. This report must include: a list of participating producers; amount of drugs collected; a list of collection sites; any safety or security problems that occurred during the collection, transportation, or disposal of collected drugs and changes made to address these issues; a description of the

public education and outreach activities; a description of recycling activities; and Corporation expenditures.

The Board may suspend the product stewardship program if necessary to protect the public from imminent danger, and may fine the Corporation for noncompliance with its requirements. Producers who are not participating in the program are subject to a penalty of \$10,000 for each day not in compliance, to be assessed by the Board.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Substitute): Vitamins, supplements, and topical applications of pet pesticide products are excluded from the definition of covered drug. The name of the Medicine Return Association is changed to the Medicine Return Corporation, and the Corporation is required to be organized a nonprofit corporation under chapter 24.06 RCW. The Corporation must include four legislative members to be chosen from each of the four caucuses and who will serve as ex officio, non-voting members. Board meetings are subject to the Open Public Meetings Act and the Public Records Act, except that the Board may hold executive sessions and producer information is exempt from disclosure.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Prescription drugs are being abused by young people; people are dying by overdosing on prescriptions or taking someone else's prescription, and there are environmental concerns about drugs getting into the water. This is a plan to get rid of unused medications that would otherwise stay in medical cabinets. This is not a new government program or new bureaucracy; this is a product stewardship program. Drug overdoses have surpassed car accidents as the leading cause of death in Washington and the majority of those deaths involve prescription opiates. Youth admissions to state-funded treatment for prescription opiates are now 19 times higher than in 2001. Over half of prescription drug abusers get the medicines from a friend or relative. This is comparable to the British Columbia program which cost approximately \$400,000 in 2009 and destroyed 112,000 pounds of medicines. Pharmaceutical substances account for over 50 percent of the substances handled by the Washington Poison Center in 2010. Prescription drugs are just as dangerous as street drugs. We know that we cannot dispose of these drugs in the trash because we know that this is bad for the environment; instead, they sit in our cabinets where teenagers may obtain them. Teenagers do not understand the consequences of taking these drugs. Education is the key to ensure that people secure their medicines and get them out the house when they are unneeded. People are dying and these toxic chemicals are showing up in the environment. Water districts have concerns about drugs in the waste water stream. The public is concerned and there is increased pressure to propose large scale treatment of waste water; this will be expensive and borne by the ratepayer. This bill is an alternative to the treatment costs. Local governments and law enforcement agencies have

take back programs, and spend local government dollars to take drugs off the street. Local government budgets and law enforcement budgets are contracting, and they cannot pay for these programs. This would assist law enforcement officers in getting out of the take-back programs. The private sector needs to be responsible for its costs because current take-back programs are not sustainable by local governments. It is not appropriate to put unwanted medicines in the trash. Contamination in the waterways may be due to inappropriate disposal, not just excretion. These programs are needed for public safety and environmental protections.

CON: This proposal is poorly defined in describing the problems the bill is intended to address. Regarding British Columbia's program, we ask if there is evidence that it has had a measureable effect in addressing the problems enumerated in the bill. The answer is that we do not have that evidence yet. A recent survey of the British Columbia program shows that only half of the population uses it. We advocate an approach focused on consumer education to teach people how to dispose of their medications; this is an appropriate way to approach this problem. There are very few biologics used in the home. We are science-based companies and the Environmental Protection Agency says that excretion from human beings is the primary source of pharmaceuticals in the water. We are not in the position to discuss issues related to addiction. In this state biotechnology has grown and we have thriving biotechnology research which we want to continue. The programs we participate in must be based in science and we do not see that in this bill. This bill is unnecessary and will not prevent medicine abuse or affect the environment. Three to 7 percent of drugs go unused. We should focus on effective mechanisms to dispose of drugs. The best way is to dispose of medicines in the household trash. We take the issue of medication abuse very seriously and we support smart disposal. We support teaching patients and caregivers how to store medicines to keep them away from children and how to properly dispose of their medicines. The over-the-counter industry wants to do what is right and what is important to consumers. These are all organic compounds and there is a great degree of decomposition and there is not a measurable quantity getting out to Puget Sound.

OTHER: The incentives for collectors is a good part of the bill. We like the voluntary aspect of participation. Research shows there is no evidence-based science to support that these programs work. Waste water treatment is effective in removing the trace measurements. The bill fails to measure outcomes and without that requirement, it would be a waste of resources.

Persons Testifying: PRO: Senator Kline, prime sponsor; Lisa Butler, Washington State Hospice and Palliative Organization; Scott Hazelgrove, Washington Association of Sewer and Water Districts; John Gahagin, Science of Management of Addiction; Jim Williams, Washington Poison Center; Jim Cooper, Washington Association for Substance Abuse and Violence Prevention; Rhonda Silver, Mike Silver, citizens; Commander Pat Slack, Snohomish Regional Drug Task Force; John Snaza, Thurston County Sheriff; Joel Hadfield, Association of Northwest Pharmacies; Margaret Shield, Local Hazardous Waste Management Program.

CON: Rend Al-Mondhiry, Consumer Health Products Association; Linda Hull, Washington Biotechnology and Biomedical Association; Jeff Gombosky, Pharmaceutical Research and Manufacturers of America.

OTHER: Brandon Houskeeper, Washington Policy Center; Mark Johnson, Washington Retail Association.