

HOUSE BILL REPORT

HB 1496

As Reported by House Committee On:
Environment

Title: An act relating to the disposal of residential sharps waste.

Brief Description: Concerning the disposal of residential sharps waste.

Sponsors: Representatives Fitzgibbon, Upthegrove, Cody and Takko.

Brief History:

Committee Activity:

Environment: 2/10/11, 2/17/11 [DPS].

Brief Summary of Substitute Bill

- Requires certain pharmaceutical manufacturers to submit a plan to the Department of Health to provide a free and convenient service for the safe collection and disposal of residential sharps waste.
- Creates civil penalties for pharmaceutical manufacturers who fail to submit, implement, or publish a plan as required, unless they qualify for an exemption.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Fitzgibbon, Jacks, Jinkins, Morris, Moscoso and Tharinger.

Minority Report: Do not pass. Signed by 7 members: Representatives Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Crouse, Nealey, Pearson, Takko and Taylor.

Staff: Courtney Barnes (786-7194).

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.

Background:

State law defines biomedical waste and gives local health departments primary responsibility for regulating infectious waste treatment and disposal. Residential sharps waste, a type of biomedical waste, is waste that is generated and prepared for disposal at a residence, apartment, dwelling, or other noncommercial habitat. Sharps waste includes items such as hypodermic needles and lancets that have been removed from the original sterile packaging.

In addition to any local regulations, the following three separate state agencies regulate particular aspects of biomedical waste handling, transportation, and disposal:

- The Department of Labor and Industries (L&I) administers provisions of the Washington Industrial Safety and Health Act preventing occupational exposure to the hepatitis B virus and the human immunodeficiency virus transmitted through medical wastes. The L&I also implements the federal Bloodborne Pathogen Standards.
- The Washington Utilities and Transportation Commission specifies how biomedical wastes are to be handled in order to protect the health, safety, and welfare of the public, the environment, and the workers who handle the biomedical waste.
- The Department of Ecology (DOE) requires all owners and operators of solid waste incineration facilities to employ an operator certified by the DOE. In addition, the DOE requires medical waste incineration to be conducted so that none of the combustible material is visible after incineration.

A person may not intentionally place unprotected sharps or a sharps waste container into recycling containers provided by a city, county, or solid waste collection company, unless that site is specifically designated by a local health department as a drop-off site for sharps waste containers.

A public or private provider of solid waste collection service may provide a program to collect source-separated residential sharps waste containers in conjunction with regular collection services. Sharps waste may not go into containers in which refuse, trash, or solid waste has been placed for collection, if a source-separated collection service is provided for residential sharps waste.

Summary of Substitute Bill:

Generally, a pharmaceutical manufacturer (manufacturer) that sells or distributes medication that is usually intended to be self-injected at home must submit a plan to the Department of Health (DOH).

Plan Requirements.

The plan must describe specific actions the manufacturer will take on and after July 1, 2013, to provide a free and convenient service for the safe collection and disposal of residential sharps waste to all consumers who use the manufacturer's self-injected medications.

The plan must be submitted electronically to the DOH by January 1, 2013, and updated annually. The DOH is required to post all plans received from manufacturers on its website. Manufacturers must also post a copy of their plan on their website.

The plan must be accompanied by a filing fee. The DOH is required to determine the amount of the filing fee. A manufacturer that is required to submit a plan may invoice any franchised solid waste transporter for up to 50 percent of the total cost of the plan.

The plan must identify all of the manufacturer's medications that are usually intended to be self-injected. At a minimum, the plan must also include a description of the actions the manufacturer will take to provide:

- patient starter kits or other educational materials on safe needle disposal to new patients;
- free sharps waste containers approved by the United States Postal Service for use in a mail program; and
- consumer information about the safe management and proper disposal of needles.

If a plan submitted by a manufacturer does not provide for a free mail program, the plan must include and describe a free and convenient network of retail businesses that the manufacturer will establish to safely collect and dispose of residential sharps waste. The manufacturer must also describe how it intends to ensure that the public is aware of the collection network.

Penalties.

Manufacturers who fail to submit, implement, or publish a plan, as required, are subject to civil penalties of \$5,000 per-day per-violation.

Exemptions.

A manufacturer is not required to submit a plan to the DOH if the manufacturer provides an annual written notice to the DOH that the manufacturer has previously submitted a plan to an agency of state government that documents that the manufacturer has and is continuing to provide either:

- a free sharps waste container to consumers for use in a mail program; or
- a puncture resistant sharps waste container that is sealed and clearly marked "not recyclable."

The bill does not apply to manufacturers that sell or distribute medication that is intended to be self-injected at home in a delivery system using a retracting hypodermic needle or automatic needle protection system that is part of the device.

Residential Sharps Waste Disposal Program Account.

The Residential Sharps Waste Disposal Program Account (Account) is created. Filing fees and civil penalties collected by the DOH must be deposited into the Account. Expenses to cover the costs of administering the requirements of the bill must be paid from the Account.

Other.

The DOH must convene a work group of stakeholders to discuss and identify options for collection and diversion of residential sharps waste from the waste stream. The DOH must submit a report to the Legislature by December 31, 2011, summarizing any options identified by the work group.

The DOH may adopt rules for the purpose of implementing, administering, and enforcing the requirements created by the bill.

Substitute Bill Compared to Original Bill:

The original bill required penalties and fees to be paid into the State Toxics Control Account (STCA) and allowed program expenses to be paid from the STCA. The substitute bill removes all references to the STCA and creates a dedicated account for penalties, fees, and program expenses. The substitute bill allows a manufacturer to invoice a solid waste transporter for up to 50 percent of the total cost of the plan submitted by the manufacturer. The substitute bill changes the dates for submitting and implementing the plan. The substitute bill creates additional exemptions for certain manufacturers and requires the DOH to convene a work group and report back to the Legislature.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2011.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill concerns employee safety. The primary worker's compensation claim for waste management companies is for injuries due to needle sticks. Proper sharps disposal is a shared responsibility. The bill asks manufacturers to bear some of the cost associated with proper sharps disposal. Consumer education about proper disposal is necessary, but there has to be a collection system in place. The bill asks manufacturers to be part of the solution and provide good stewardship to protect the environment. The bill concerns residential sharps waste, but it does not address veterinary needles.

(Opposed) The bill raises several unintended consequences. Many insurance carriers already cover the cost of a sharps waste container. The bill could cause this type of coverage to be dropped from private health insurance. The bill unfairly targets pharmaceutical manufacturers instead of the manufacturers who produce the sharps. A collection plan will not ensure that consumers use a collection service, and it will not stop chronic drug abusers from improperly disposing of their needles. Several companies already provide consumer information or a voluntary collection program. The bill adds another layer of bureaucracy for companies that are already trying to do the right thing. The bill does not allow for flexibility and is premature.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; Brad Boswell and Kent Stoddard, Waste Management, Inc.; Laura Sims; and Richard Stevens, Cascade Recycling.

(Opposed) Tom Boyer, Novo Nordisk; Scott Sigmon, Elsay Pharmaceuticals; Jeff Gombosky, Pharmaceutical Research and Manufacturers of America; and Linda Hull, Washington Biotechnology and Biomedical Association.

Persons Signed In To Testify But Not Testifying: None.