

SENATE BILL REPORT

ESHB 2228

As Reported by Senate Committee On:
Health & Long-Term Care, February 23, 2012

Title: An act relating to medication access for the uninsured.

Brief Description: Allowing for redistribution of medications under certain conditions.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Appleton, Reykdal, Stanford, Ryu, Maxwell, Pollet, Ormsby, Cody, Upthegrove, Roberts, Kagi, Wilcox, Ladenburg and Hasegawa).

Brief History: Passed House: 2/10/12, 82-14.

Committee Activity: Health & Long-Term Care: 2/16/12, 2/23/12 [DPA, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker, Ranking Minority Member; Carrell and Pridemore.

Minority Report: That it be referred without recommendation.

Signed by Senators Frockt, Kline, Parlette and Pflug.

Staff: Kathleen Buchli (786-7488)

Background: Thirty-eight states have enacted laws to create prescription drug recycling, repository, or redistribution programs for unused medication. In general, drug redistribution programs allow the return of prescription drugs in single-use or sealed packaging from state programs, nursing homes, and other medical facilities. The medicines are then redistributed for use to needy residents who cannot afford to purchase their prescribed drugs. The scope of prescription drug programs varies by state and may include the following provisions: direct the financial terms of the donations or regulate resale; assure purity, safety, and freshness of the products; restrict the donation of expired drugs; prohibit the donation of controlled substances; require a state-licensed pharmacist or pharmacy to be part of the verification and distribution process; require patients to possess a valid prescription for the drugs they receive; limit donations to cancer drugs; limit donations to within long-term care facilities; or limit program participation to correctional facilities.

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.

Summary of Bill (Recommended Amendments): Any health care practitioner, pharmacist, medical facility, drug manufacturer, or drug wholesaler may donate prescription drugs and supplies to a pharmacy for redistribution to individuals who are uninsured and are at or below 200 percent of the federal poverty level. If an uninsured and low-income individual has not been identified as in need of available prescription drugs and supplies, other individuals expressing need may receive those drugs.

Participation by a pharmacy is voluntary. A pharmacy that receives prescription drugs or supplies may distribute these to another pharmacy, pharmacist, or prescribing practitioner for redistribution.

Prescription drugs and supplies may be accepted and dispensed by participating pharmacies if the prescription drug is in its original sealed and tamper-evident packaging or in an opened package if the single unit doses remain intact; the prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated; the prescription drug or supplies are inspected before they are dispensed, and they are determined to not be adulterated or misbranded; the prescription drug is dispensed by a pharmacist for the use of a person holding a prescription for those drugs or supplies; and other safety precautions adopted by the Department of Health are satisfied.

Any donor who receives notice of a recall relating to donated prescription drugs or supplies must notify the pharmacy of the recall; recalled medications may not be distributed.

Donors and dispensers are immune from criminal prosecution, civil liability, or professional disciplinary action for injury, death, or loss to person or property relating to the donation of the prescription drug or supply, unless there has been a finding of gross negligence. This immunity applies to injuries resulting from failure of a drug manufacturer to transfer or communicate product or consumer information or failure to communicate the expiration date of the donated prescription drug or supply. Drug manufacturers are not provided immunity from actions that would have existed but for the donation.

Donated prescription drugs and supplies may not be resold and are not eligible for reimbursement under the medical assistance program.

EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Amendments): Donors and dispensers are provided with immunity from criminal or civil actions unless there has been a finding of gross negligence. This immunity applies to drug manufacturers for failure to transfer or communicate product or consumer information or expiration dates. This immunity does not apply to actions against a drug manufacturer that would have existed but for the donation. A recipient of donated drugs must be informed that the drug was donated.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2013.

Staff Summary of Public Testimony as Heard in Committee: PRO: This bill is a small step, but a positive one to help people who do not have money to buy their prescription drugs. This bill is non-bureaucratic and will directly help people.

Persons Testifying: PRO: Representative Jenkins, prime sponsor.