

# HOUSE BILL REPORT

## SSB 5148

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**As Reported by House Committee On:**  
Health Care & Wellness

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

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

**Sponsors:** Senate Committee on Health Care (originally sponsored by Senators Keiser, Becker, Cleveland, Conway, Frockt, Parlette, Rolfes, Kohl-Welles, Schlicher and Kline).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 3/14/13, 3/28/13 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by Committee)**

- Establishes a program for health practitioners, pharmacists, medical facilities, and drug manufacturers and wholesalers to donate, accept, and redistribute prescription drugs and supplies at no cost to people expressing a need.
- Provides immunity to participants in the prescription drug redistribution program.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 15 members: Representatives Cody, Chair; Jinkins, Vice Chair; Angel, Clibborn, Green, Harris, Manweller, Moeller, Morrell, Riccelli, Rodne, Ross, Short, Tharinger and Van De Wege.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Schmick, Ranking Minority Member; Hope, Assistant Ranking Minority Member.

**Staff:** Chris Blake (786-7392).

**Background:**

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*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.*

Except in limited situations, the Board of Pharmacy prohibits pharmacies from accepting drugs and supplies for return or exchange after they have been taken off of the premises from where they were sold, distributed, or dispensed. Exceptions apply to drugs that have been dispensed in unit dose forms or in a sealed ampoule that allows the pharmacist to determine if it has been tampered with and that it meets standards for storage conditions, including temperature, light sensitivity, and chemical and physical stability. In addition, hospitals and long-term care facilities may accept drugs for return and reuse under similar circumstances. Controlled substances may not be returned to a pharmacy except to be destroyed.

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### **Summary of Amended Bill:**

Practitioners, pharmacists, medical facilities, drug manufacturers, or drug wholesalers may donate prescription drugs and supplies to a pharmacy for redistribution to individuals at no cost. The drugs may either be distributed by the receiving pharmacy or sent to another pharmacy, pharmacist, or prescribing practitioner for distribution under the program. Priority for the redistributed drugs and supplies must be given to those who are uninsured and at or below 200 percent of the federal poverty level. Other individuals expressing need may receive the drugs or supplies if an uninsured, low-income individual has not been identified. Drugs and supplies received under the program may not be resold.

Prescription drugs and supplies may only be accepted and dispensed if they are inspected by the accepting pharmacist who determines that they have not been adulterated or misbranded. Prescription drugs must be more than six months from expiration at the date of donation and be in their original sealed and tamper-evident packaging or an unopened single dose package. If a donor has received a recall notice regarding donated prescription drugs or supplies, he or she must notify the pharmacy which must immediately remove the recalled medications. Prescription drugs that the federal Food and Drug Administration has determined may only be dispensed to patients registered with the drugs' manufacturers may not be accepted under the program.

Immunity from civil or criminal liability or professional discipline is established for those who donate, accept, or distribute prescription drugs as long as they acted in good faith and did not act with gross negligence or willful or wanton misconduct. Drug manufacturers may receive immunity from civil or criminal liability relating to donation, acceptance, or dispensing activities related to drugs that they manufactured, including liability for the failure to communicate product information or the expiration date of the donated prescription drug.

The Department of Health must adopt rules establishing forms and procedures to verify the eligibility and priority of patients and to inform people receiving prescription drugs through the program that the drugs were donated for redistribution.

### **Amended Bill Compared to Substitute Bill:**

The amended bill specifies that drugs and supplies donated under the program are not eligible for reimbursement for either the item or the dispensing fee under any public or private program. Prescription drugs that the federal Food and Drug Administration has determined

may only be dispensed to patients registered with the drugs' manufacturers may not be accepted under the program.

Immunity for failure to transfer or communicate product or consumer information or the expiration date of the donated item is applied to only drug manufacturers, rather than all program participants. The listed elements of what does not constitute "gross negligence" are removed.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect on July 1, 2014.

**Staff Summary of Public Testimony:**

(In support) Thirty-nine other states are already doing this without a problem. It is a waste to see perfectly fine prescription drugs that are very expensive being thrown away instead of reused. Many unused prescriptions are disposed of in inappropriate ways. Many patients are at risk of complications from health conditions and diseases because of the inability to afford prescription medications. This bill provides an innovative solution to the problems of disposal of and access to medications.

Medicare conditions of participation require hospice agencies to educate patients and families on how to dispose of unused medications and this bill would allow this education to include instructions on the donation process, rather than disposal.

(With concerns) There should be an amendment to exclude products with serious and significant side effects as determined by the federal Food and Drug Administration.

(Opposed) None.

**Persons Testifying:** (In support) Senator Keiser, prime sponsor; Leslie Emerick, Home Care Association of Washington; and Lisa Butler, Washington State Hospice and Palliative Care Organization.

(With concerns) Jeff Gombosky, Pharmaceutical Research and Manufacturers of America.

**Persons Signed In To Testify But Not Testifying:** None.