

# SENATE BILL REPORT

## SHB 1382

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As Reported by Senate Committee On:  
Health Care, March 25, 2013

**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, Harris, Cody, Tharinger, Green, Morrell, Ryu, Riccelli, Bergquist, Reykdal, Lytton, Fitzgibbon, Van De Wege, Maxwell, Pollet and Santos).

**Brief History:** Passed House: 2/25/13, 81-11.

**Committee Activity:** Health Care: 3/14/13, 3/25/13 [DPA].

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass as amended.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Keiser, Ranking Member; Bailey, Cleveland, Ericksen, Parlette and Schlicher.

**Staff:** Kathleen Buchli (786-7488)

**Background:** Thirty-nine states have enacted laws to create prescription drug recycling, depository, 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 those within long-term care facilities; or limit program participation to correctional facilities.

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

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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.

**Summary of Bill (Recommended Amendments):** 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. Donated drugs may not include controlled substances or drugs that may only be dispensed directly by the manufacturer of the drug. 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 is not 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 were not adulterated, misbranded, or recalled. 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 received a recall notice regarding donated prescription drugs or supplies, the donor must notify the pharmacy which must immediately remove the recalled medications. 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 of 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; to inform recipients that they are receiving drugs donated for the purposes of redistribution; and as necessary to implement the program.

**EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments):** Modifies the immunity language to provide that participants in the medication redistribution program are not subject to criminal prosecution, professional discipline, or civil liability for damages for matters relating to the donation, acceptance, or dispensing of the prescription drug. Drug manufacturers are provided this immunity for failure to transfer or communicate product or consumer information. This immunity does not apply if the participant commits acts or omissions that constitute gross negligence. For a person distributing donated prescription drugs actions, gross negligence is not shown if a person distributes prescription drugs in accordance with the act, maintains records of any prescription drugs and supplies donated to be dispensed by the pharmacy, and identifies them self to the public as participating in the prescription drug redistribution program.

Prohibits redistribution of prescription drugs that can only be dispensed to a patient registered with the manufacturer of that drug.

Requires the pharmacist who inspects the donated drugs or supplies to determine whether the drugs or supplies are subject to a recall.

Requires the person receiving the donated prescription drugs or supplies to be informed that that the prescription was donated for the purposes of redistribution.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Substitute House Bill:** PRO: There are so many drugs in long-term care facilities that are safely kept but cannot be used. This bill addresses the challenges of a drug redistribution program and addresses a safe supply chain. Thirty-nine states have some form of drug redistribution program. This is a great voluntary, private sector approach. Many prescription drugs are disposed of inappropriately and we frequently see this in the home health setting. People without access to their prescriptions will develop complications to their conditions and this bill provides a potential source to low-income individuals for their prescription medicine. Hospice providers serve terminally ill individuals whose families are often left with unused medications. It will help these families if they are able to donate these medications and if hospice programs will provide them information on how to donate those medications.

OTHER: Certain drugs such as thalidomide may only be dispensed directly by the manufacturer of the drug. We ask that the bill be amended to not allow such drugs to be distributed under this program.

**Persons Testifying:** PRO: Representative Jinkins, prime sponsor; Leslie Emerick, Home Care Assn. of WA; Lisa Butler, WA State Hospice and Palliative Care Organization.

OTHER: Jeff Gombosky, Pharmaceutical Research and Manufacturers of America.