

# SENATE BILL REPORT

## ESHB 2458

---

---

As Reported by Senate Committee On:  
Health Care, February 25, 2016

**Title:** An act relating to participation in the prescription drug donation program.

**Brief Description:** Concerning participation in the prescription drug donation program.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Parker, Cody, Riccelli, Holy and Tharinger).

**Brief History:** Passed House: 2/11/16, 97-0.

**Committee Activity:** Health Care: 2/18/16, 2/25/16 [DPA].

---

### SENATE COMMITTEE ON HEALTH CARE

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

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Cleveland, Ranking Minority Member; Angel, Bailey, Baumgartner, Brown, Conway, Frockt, Jayapal, Keiser, Parlette and Rivers.

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

**Background:** Except in limited situations, the Pharmacy Quality Assurance Commission prohibits pharmacists from accepting drugs and supplies for return or exchange after they have been removed from the premises 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, pharmacies serving 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.

There are liability protections for entities that donate, accept, or distribute prescription drugs that have been exchanged through a drug donation program. Under the program, practitioners, pharmacists, medical facilities, drug manufacturers, and drug wholesalers may donate prescription drugs for redistribution without compensation. The drugs must meet specific packaging standards and pharmacist review requirements. Approved drugs may be

---

*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.*

distributed to any patient, but priority is given to patients who are uninsured and have an income of 200 percent of the federal poverty level or less.

**Summary of Bill (Recommended Amendments):** Individual persons and their representatives are added to the types of donors who may donate unused drugs to a pharmacy for redistribution under the prescription drug donation program. Individual persons who wish to donate to the program must complete and sign a donor form, developed by the Department of Health, to authorize the release and certify that the donated prescription drugs have not been opened, used, adulterated, or misbranded. A pharmacist must, in his or her professional judgment, determine that the drugs were stored under required temperature conditions using the drugs' time temperature indicator information. The term "time temperature indicator" means a device or smart label that shows the accumulated time-temperature history of a product through the entire supply chain.

The requirements that priority for the distribution of donated drugs be given to persons who are both uninsured and have an income that is at or below 200 percent of the federal poverty level are changed to remove the income standard. The term "uninsured" is defined as a person who either: (1) does not have health insurance; or (2) has health insurance, but that insurance does not include coverage for a drug that has been prescribed to the person.

Prescription drugs that require registration with the drug's manufacturer may be accepted under the prescription drug donation program and may be dispensed if the patient is registered with the manufacturer at the time of dispensing and the amount does not exceed the duration of the registration period. The liability protections that apply to drug manufacturers are clarified also to apply to prescription drugs that may only be dispensed to a patient who is registered with the drug's manufacturer.

**EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments):** Removes direction for the Department of Health (DOH) to adopt rules establishing forms and procedures but directs DOH to develop a form for persons to use when releasing prescription drugs for distribution and certifying the condition of the drugs. Removes general rulemaking authority to implement the drug donation and redistribution chapter.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill takes effect on January 1, 2017.

**Staff Summary of Public Testimony on Engrossed Substitute Bill:** PRO: The statewide non-profit organization Cancer Can't will help facilitate distribution of cancer drugs. This applies to cancer drugs because these drugs are very expensive and when prescriptions change, patients are left with drugs that could be used to help other people. Doctors' offices cannot take these drugs back once they are distributed. We are glad to see the continuing work on making this program take effect and we hope that it will be used to redistribute

medication used in the treatment of mental illness. Donating drugs can be one of the last ways to honor someone. We plan to create an on-line database to further help in the redistribution of drugs.

**Persons Testifying on Engrossed Substitute Bill:** PRO: Rep. Parker, Prime Sponsor; Seth Dawson, National Alliance on Mental Illness, Washington; Rebecca Vankeulen, Cancer Can't; Mary McHale, American Cancer Society Cancer Action Network.

**Persons Signed In To Testify But Not Testifying on Engrossed Substitute Bill:** No one.