H-3707.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2360**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Peterson, Fitzgibbon, Robinson, Orwall, Macri, Doglio, Cody, and Riccelli

AN ACT Relating to the sharps waste stewardship program; adding new sections to chapter 70.95 RCW; repealing RCW 70.95K.030; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  INTENT. The legislature finds that sharps are a necessary medical technology that are commonly used by consumers outside of health care settings to treat medical conditions including diabetes, multiple sclerosis, allergies, infertility, arthritis, hepatitis, HIV, blood clotting disorders, migraines, psoriasis, and cancer. Consumers dispose of large numbers of used needles, syringes, auto-injectors, and lancets each year. Because they pierce the skin, used sharps may be contaminated with blood-borne pathogens, including hepatitis and HIV, but consumers are often confused about how to properly dispose of this biohazardous waste or do not have safe disposal options available to them.

The legislature finds that putting used sharps into the trash or flushing them down the toilet is a health risk to others. Consumers often do not have a proper sharps waste container and may substitute thin plastic bottles that are not puncture resistant. Mail-back services or drop-off programs for filled sharps waste containers are not convenient or affordable for many residents. Currently sharps drop-off locations are available in fewer than half of Washington counties. Used sharps are routinely found in waste and recycling containers, on sort lines in recycling facilities, and discarded in public places including parks and playgrounds. Local governments, local health departments, police and fire agencies, and parks departments, are burdened with increasing costs of programs to collect, cleanup, and dispose of used sharps.

The legislature finds that improperly disposed or discarded used medical sharps, including needles, injection devices with attached needles, and lancets, are a serious public health risk for needlestick injuries and spread of infectious diseases to Washington residents, waste and recycling industry workers, custodial and maintenance workers, and public employees. Even if a needlestick injury does not cause infection, it can have significant impacts on victims who must be tested and wait for days or months to know if they have contracted a communicable disease which may be life-threatening.

The legislature finds that Washington does not have a uniform, convenient, and safe sharps disposal program.

Therefore, the legislature intends to establish a uniform, effective, statewide system for safe disposal of sharps waste from consumers that is funded and operated by manufacturers of sharps and injectable drugs in order to protect public health and safety and to reduce the improper disposal of sharps in solid waste and recycling systems.

NEW SECTION. **Sec.**  DEFINITIONS. (1) "Department" means department of health.

(2) "Drop-off programs" means those program sites designated by the solid waste planning jurisdiction where sharps users may dispose of their sharps containers.

(3) "Drugs" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances other than food, minerals, or vitamins that are intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection.

(4) "Local health department" means the city, county, city-county, or district public health department.

(5) "Mail programs" means those programs that provide sharps users with a multiple barrier protection kit for the placement of a sharps container and subsequent mailing of the wastes to an approved disposal facility.

(6) "Manufacture of drugs" has the same meaning as "manufacture" in RCW 18.64.011.

(7) "Pharmacy return programs" means those programs where sharps containers are returned by the user to designated return sites located at a pharmacy to be transported by a biomedical or solid waste collection company approved by the utilities and transportation commission.

(8) "Private label distributor" means a company that has a valid labeler code under 21 C.F.R. Sec. 207.17 and markets a drug usually intended to be injected outside a health care setting under its own name, but does not perform any manufacturing.

(9) "Public agency" means any state, tribal government, city, town, municipal corporation, or special purpose district, or any subdivision, office, department, division, bureau, board, commission, or agency thereof, including but not limited to health departments, law enforcement agencies, fire departments, and public waste agencies.

(10) "Repackager" means a person who owns or operates an establishment that repacks and relabels a product or package containing a sharp or a drug usually intended to be injected outside a health care setting for further sale, or for distribution without further transaction.

(11) "Residential sharps waste" means sharps waste that is generated and prepared for disposal at a residence, apartment, dwelling, or other noncommercial habitat.

(12) "Retail pharmacy" means a place licensed as a pharmacy under chapter 18.64 RCW for the retail sale and dispensing of drugs.

(13) "Self-service sharps collection receptacle" means a secure, rigid drop box or kiosk with a permanent outer container and a removable inner container, or a similar technology, that a sharps user may use without assistance for the deposit of sharps waste. The chute or mechanism of a self-service sharps collection receptacle must be able to accept common personal sizes of sharps waste containers and must not allow retrieval of deposited sharps waste.

(14) "Sharps" means all hypodermic needles, syringes with needles attached, auto-injectors, IV tubing with needles attached, scalpel blades, lancets, or other similar instrument that is designed to puncture the skin of individuals or animals for medical purposes.

(15) "Sharps collection site" means a location participating in an approved sharps stewardship program where sharps waste is accepted or where a self-service sharps collection receptacle is located, including but not limited to pharmacy return programs, drop-off programs, and sharps waste drop boxes operated by public agencies.

(16)(a) "Sharps producer" means:

(i) A person, corporation, or other entity engaged in the manufacture of drugs sold for use in, distributed in, or used in Washington state that are usually intended to be injected outside a health care setting; and

(ii) An entity other than a drug manufacturer that manufactures sharps that are sold for use in, distributed in, or used in Washington state for use outside a health care setting.

(b) A sharps producer does not include:

(i) A retailer, repackager, or private label distributor that sells a sharp or a drug that is usually intended to be injected outside a health care setting under their label if they do not manufacture the sharp and provided that the manufacturer is identified to the department under section 3 of this act; and

(ii) A wholesaler or distributor who is not also the manufacturer of the sharp.

(17) "Sharps stewardship program" means a program to collect and dispose of sharps waste that is financed by sharps producers and operated by a sharps producer, a group of sharps producers, or a stewardship organization.

(18) "Sharps user" means any resident or consumer within the state that uses one or more sharps for the administration of drugs or blood testing outside a health care setting. "Sharps user" does not include business generators of sharps waste, such as hospitals, clinics, doctor's offices, veterinary clinics, or pharmacies.

(19) "Sharps waste" means all hypodermic needles, syringes with needles attached, auto-injectors, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

(20) "Sharps waste container" means a leak-proof, rigid, puncture-resistant red container that is taped closed or tightly lidded to prevent the loss of the sharps waste.

(21) "Stewardship organization" means a nonprofit organization designated by a sharps producer or group of sharps producers to act as an agent on behalf of each producer to develop and implement a sharps stewardship program required under this legislation.

(22) "Unprotected sharps" means residential sharps waste that are not disposed of in a sharps waste container.

NEW SECTION. **Sec.**  REQUIREMENT TO PARTICIPATE. (1) Every sharps producer shall participate in a sharps stewardship program that has been approved by the department and complies with the requirements of this chapter. A sharps producer may establish and implement a sharps stewardship program independently, as part of a group of sharps producers, or through membership in a stewardship organization.

(2) A manufacturer that becomes a sharps producer after the effective date of this section, must, no later than six months after the date on which the manufacturer's products are sold for use in, distributed in, or used in Washington state, participate in an approved sharps stewardship program or establish and implement an approved sharps stewardship program.

(3) No later than ninety days after the effective date of this section, a retail pharmacy, repackager, or private label distributor must provide written notification to the department identifying the sharps producer from which the retail pharmacy, repackager, or private label distributor obtains a sharps product that it sells under its own label.

(4) A person or entity that receives a letter of inquiry from the department regarding whether or not it is a sharps producer under this chapter shall respond in writing no later than sixty days after receipt of the letter. If the person or entity does not believe it is a sharps producer for purposes of this chapter, it shall:

(a) State the basis for the belief;

(b) Provide a list of any sharps or injectable drugs it sells, distributes, repackages, or otherwise offers for sale within the state; and

(c) Identify the name and contact information of the manufacturer of the sharps identified under (b) of this subsection.

NEW SECTION. **Sec.**  PLAN SUBMISSION. (1) No later than sixty days after the adoption of department rules establishing requirements for sharps stewardship program plans as required by section 18 of this act, each sharps producer must independently, with a group of sharps producers, or through a stewardship organization submit a sharps stewardship program plan to the department for approval. The department shall approve a proposed program if the applicant submits a completed application, the proposed program meets the requirements of subsection (2) of this section, and the applicant pays the appropriate fee established by the department under section 13 of this act.

(2) To be approved by the department, a proposed sharps stewardship program must:

(a) Identify and provide contact information for the official point of contact of the sharps stewardship program and each participating sharps producer;

(b) Identify and provide contact information for the participating distributors of sharps waste containers and sharps collection sites for the proposed program;

(c) Provide for a distribution and collection system that complies with sections 5, 6, 7, and 8 of this act;

(d) Identify any transporters, processing facilities, and waste disposal facilities that the program will use;

(e) Adopt policies and procedures to be followed by persons handling sharps collected under the program to ensure safety and compliance with federal, state, and local laws regarding the management of sharps waste;

(f) Ensure the security of patient information on sharps packaging during collection, transportation, and disposal;

(g) Provide a detailed plan to promote the program as required by section 9 of this act;

(h) Demonstrate adequate funding for all administrative and operational costs of the sharps stewardship program, with costs apportioned among participating sharps producers;

(i) Set long-term and short-term goals with respect to collection amounts and public awareness and provide a detailed plan for how goals will be achieved during the next four-year period; and

(j) Describe the multiyear plan for improving the sharps stewardship program's adherence with the state's waste management goals of reducing waste through reuse, recycling, and recovery of materials through improved program practices and technologies.

(3)(a) No later than one hundred twenty days after receipt of a sharps stewardship program plan, the department shall either approve or reject the plan in writing to the applicant. The department may extend the deadline for approval or rejection of a plan for good cause. If the department rejects the plan, it shall provide the reason for rejection.

(b) During the review of a sharps stewardship program plan, the department shall solicit and review comments on the plan from public agencies, local health departments, and the department of ecology, and accept comments from members of the public.

(c) The department shall make all plans and plan updates submitted under this section available to the public.

(d) No later than ninety days after receipt of a notice of rejection under (a) of this subsection, the applicant shall submit a revised plan to the department. The department shall either approve or reject the revised plan in writing to the applicant within ninety days after receipt of the revised plan, including the reason for rejection, if applicable.

(e) If the department rejects a revised plan, the department may:

(i) Require the applicants to submit a further revised plan;

(ii) Develop and impose changes to the revised plan to address deficiencies;

(iii) Require the sharps producer or sharps producers that proposed the rejected revised plan to participate in a previously approved sharps stewardship program; or

(iv) Find the sharps producer or sharps producers out of compliance with the requirements of this chapter and take enforcement action as provided in section 12 of this act.

(4)(a) An approved sharps stewardship program shall initiate program operations, including distribution of sharps waste containers, collection of sharps waste, and program promotion, no later than ninety days after approval of the program plan by the department.

(b) An approved sharps stewardship program shall achieve the minimum requirements for number and geographic distribution of sharps collection sites as required by section 8 of this act no later than one hundred eighty days after program operations are initiated.

(5)(a) Proposed changes to an approved sharps stewardship program that substantially alter program operations must have prior written approval of the department. A sharps stewardship program shall submit to the department such a proposed change in writing at least thirty days before the change is scheduled to occur. Changes requiring prior approval of the department include changes to participating sharps producers, collection methods, policies and procedures for handling sharps, education and promotion methods, and selection of sharps waste processing and waste disposal facilities.

(b) For changes to a sharps stewardship program that do not substantially alter program operations, a sharps stewardship program shall notify the department at least seven days before implementing the change. Changes that do not substantially alter program operations include changes to collection site locations and methods for distributing prepaid, preaddressed mailers.

(c) The department shall create an expedited review process for any modifications to an approved sharps stewardship program required by changes to local, state, or federal laws or regulations.

(d) An approved sharps stewardship program shall notify the department of any changes to the official point of contact for the program no later than fifteen days after the change. An approved sharps stewardship program must notify the department of any changes in ownership or contact information for participating sharps producers no later than ninety days after such change.

(6) No later than four years after a sharps stewardship program initiates operation, and every four years thereafter, participating sharps producers or their stewardship organization shall submit an updated plan to the department describing any substantive changes to program elements described in subsection (2) of this section. The department shall approve or reject the updated plan using the process required in subsection (3) of this section.

NEW SECTION. **Sec.**  DISTRIBUTION OF SHARPS WASTE CONTAINERS AND MAIL PROGRAM. (1) A sharps stewardship program shall provide sharps waste containers and prepaid mail-back materials to a sharps user or their household member or caregiver, upon request and at no cost. Sharps users can request the number of containers sufficient to accommodate the volume of sharps or injectable drugs used by the sharps user. Travel size sharps waste containers and safe needle clipper devices must also be available upon request.

(2) A sharps stewardship program shall provide an ongoing and sufficient supply of sharps waste containers and prepaid mail-back materials upon request and at no cost to the following entities for distribution to and use by sharps users:

(a) Pharmacies, doctor's offices, medical clinics, hospitals, veterinary clinics, home health service providers, home hospice programs, and other health and social service providers; and

(b) Police stations, fire stations, local health departments, and other public agencies including solid waste programs. The number of sharps waste containers supplied to these entities must be sufficient to provide to residents who participate in public events where containers will be distributed.

(3) A sharps stewardship program shall provide an ongoing supply of sharps waste containers and prepaid mail-back materials upon request and at no cost to public libraries, schools, universities, retailers, shopping centers, restaurants, arenas, apartment complexes, and other public facilities that provide sharps disposal containers for their customers, residents, or the public in restrooms or other areas. Upon request, producers must provide wall mount units to securely hold sharps waste containers to these entities at no cost.

(4) A sharps stewardship program shall provide a simple process for individuals and entities to request sharps waste containers and mail-back materials through the program's web site and a toll-free phone number. Sharps waste containers and mail-back materials must be sent to the requestor within three business days of a request. Producers may not substitute a voucher, coupon, ordering instructions, or other surrogates for the sharps waste container and mail-back materials.

(5) The sharps waste containers provided by the sharps stewardship program must:

(a) Be leak-proof, rigid, puncture-resistant red containers and meet all applicable federal and state standards for mailing or shipping sharps waste;

(b) Be clearly labeled "not recyclable, do not recycle" and "do not dispose in trash";

(c) Include attached materials providing instructions for how the sharps user can either drop off the container at a sharps collection site or mail back the container;

(d) Include prepaid postage either affixed to the container or provided in the mail-back materials; and

(e) Provide the phone number and web site of the sharps stewardship program on the container's label or on materials included with the container or its packaging.

NEW SECTION. **Sec.**  PHARMACIES AND OTHER COLLECTION SITES. (1) A sharps stewardship program is required to notify all retail pharmacies, clinics, hospitals, and veterinary clinics in the state of the opportunity to participate as a sharps collection site. Pharmacies selling sharps products are encouraged to participate.

(2) A sharps stewardship program must include as a sharps collection site any retail pharmacy, clinic, hospital, or veterinary clinic that offers to participate in the program without compensation. A sharps stewardship program may include other entities as a sharps collection site that are capable of safely managing collected sharps waste in accordance with the policies and procedures of the sharps stewardship program. Collection sites may participate in the sharps stewardship program voluntarily or in exchange for compensation, but nothing in this chapter requires a person or entity to serve as a collection site.

(3) A sharps stewardship program shall pay for shipping and final disposal of collected sharps waste and form an agreement with each participating collection site to provide either:

(a) An adequate and ongoing supply of prepaid mailing labels and all other packaging and materials required under federal and state regulations for shipping and disposal of each collected sharps waste container; or

(b) Services for pick up, transportation, and disposal of consolidated sharps waste containers from the collection site location, including providing transport containers as needed. The sharps stewardship program shall provide a service schedule and process that meets the needs of each collection site. The sharps stewardship program shall ensure that sharps waste is removed as often as necessary to avoid storage containers or self-service collection receptacles reaching capacity, including a process for additional prompt collection service upon notification from the collection site.

(4) Participating sharps collection sites:

(a) May choose to use a self-service sharps collection receptacle inside the premises of their location that is provided and serviced by the sharps stewardship program or to accept filled sharps waste containers directly from sharps users for mail or pick-up services provided by the sharps stewardship program;

(b) Shall accept sharps waste from sharps users during the hours that the collection site is normally open for business with the public;

(c) Have the right to refuse to accept unprotected sharps and are encouraged to provide a sharps waste container to any individual attempting to return unprotected sharps; and

(d) May not knowingly include any business-generated sharps waste, such as sharps waste from pharmacy or clinic provided health services.

NEW SECTION. **Sec.**  PUBLIC AGENCY COLLECTION. (1) A sharps stewardship program shall include any public agency that offers to participate in the program.

(2) A sharps stewardship program shall reimburse participating public agencies for their costs of operating programs to collect sharps waste from sharps users and from programs operated or approved by the public agency to collect discarded needles.

(3) A public agency may accept sharps waste from:

(a) Sharps users;

(b) Sharps drop-off programs;

(c) Local entities collecting sharps waste from sharps users, including those providing public sharps waste containers, such as public libraries, restaurants, retailers, and apartment complexes;

(d) Public self-service sharps collection receptacles operated or approved by the public agency;

(e) Programs providing cleanup of discarded needles in public areas;

(f) Approved contractors of the public agency providing sharps waste services to sharps users; and

(g) Facilities removing sharps waste that has contaminated residential waste or recycling streams.

(4) A sharps stewardship program shall reimburse participating public agencies for costs of:

(a) Purchase and distribution of any sharps waste containers and other collection materials that are not received directly from the sharps stewardship program;

(b) Purchase of collection supplies, including self-service sharps collection receptacles, if utilized;

(c) Transport of collected sharps from remote collection sites or events to consolidation points;

(d) All packaging, liners, secondary containment, and shipping materials required under federal, state, or local regulations, including large shipping containers for consolidation of sharps waste containers, that are not received directly from the sharps stewardship program; and

(e) Shipping and final disposal of sharps waste from consolidation points if the sharps stewardship program does not directly provide for shipping and disposal.

(5) For shipping and final disposal of sharps waste, a sharps stewardship program shall:

(a) Either:

(i) Reimburse public agencies or their approved contractors for their costs of transportation and disposal of sharps waste; or

(ii) Provide for the removal and disposal of collected sharps waste from consolidation points such as waste transfer stations, municipal buildings, and municipal collection events on a schedule agreed upon with the public agency; and

(b) Respond to requests by public agencies in a timely manner and identify the method to resolve the request by selecting either reimbursement or removal from consolidation points.

(6) Public agencies or their approved contractors shall invoice the sharps stewardship program for reimbursement of costs, providing proof of payment and proof of disposal as appropriate, no more than once per quarter. Payment must be issued within ninety days of the invoice date.

NEW SECTION. **Sec.**  COLLECTION SYSTEM. (1) Each sharps stewardship program shall provide collection services, as required in sections 6 and 7 of this act, to support a convenient system of sharps collection sites that provide equitable and reasonably convenient access for residents across the state on an ongoing, year-round basis.

(2) At a minimum a sharps stewardship program shall ensure that:

(a) Each city or town has at least one sharps collection site, plus at least one additional sharps collection site for every twenty thousand residents;

(b) Sharps collection sites in each city are geographically distributed to provide reasonably convenient and equitable access to all residents of the city; and

(c) Ninety percent of residents living in unincorporated areas are within a fifteen-mile radius of a sharps collection site.

(3) If sharps collection sites cannot be arranged to meet the minimum requirements in subsection (2) of this section in any town, city, or unincorporated area, then the sharps stewardship program shall provide supplemental distribution of sharps waste containers and prepaid mail-back materials to residents of those areas.

(4) For residents of islands without sharps collection sites, tribal lands, and geographically isolated populations, a sharps stewardship program must ensure adequate availability and distribution of sharps waste containers and prepaid mail-back materials.

(5) The department shall review and approve the supplemental services required in subsections (3) and (4) of this section as part of stewardship plan review and changes to an approved plan.

NEW SECTION. **Sec.**  PROGRAM PROMOTION. (1) A sharps stewardship program shall finance and provide a statewide promotion system to educate and conduct outreach to patients, health care providers, pharmacists, home care providers, and the general public about how to use the services of the sharps stewardship program and about proper handling and disposal of sharps waste. At a minimum, each program shall:

(a) Conduct activities to maximize the awareness of and participation in the sharps stewardship program, including promotional activities that, when considered together, expose at least seventy-five percent of the population to at least three advertising messages during a one-month period at least three times per year;

(b) Conduct outreach and education to the diverse ethnic populations of Washington state through translated and culturally appropriate materials and targeted outreach in appropriate languages;

(c) Promote program services to pharmacies, health care providers, home care providers and other entities listed in section 5 of this act and provide simple instructions for requesting an adequate and ongoing supply of sharps waste containers, mail-back materials, and other materials as required in section 5 of this act.

(d) Provide a toll-free phone number and web site publicizing program services that simply and clearly explains how sharps waste containers and mail-back materials may be requested by residents and by other entities as required under section 5 of this act, how the sharps mail program may be used, and where sharps waste may be dropped off at the program's participating sharps collection sites and at sharps drop-off programs operated by other entities in the state such that residents can easily identify, understand, and access sharps collection service provided throughout the state;

(f) Discourage residents from disposing of sharps in the solid waste, recycling, or sewer systems; and

(g) Distribute educational materials at no cost to pharmacies, doctor's offices, health care facilities, veterinary clinics, local health departments, public agencies, and other interested parties for dissemination to sharps users.

(2) If more than one stewardship program is approved, the programs shall coordinate their promotion efforts so that residents are aware of all sharps waste disposal options.

(3) Each approved sharps stewardship program shall coordinate education with approved drug take-back programs under chapter 69.48 RCW to ensure residents understand how to safely dispose of emptied syringes, auto-injectors, and other drug delivery devices with an attached sharp as sharps waste and how to safely dispose of unused syringes, auto-injectors, and other drug delivery devices containing drugs through the drug take-back program.

(4) Pharmacies, health care providers, and entities that sell sharps products in the state are encouraged to promote the sharps stewardship program.

(5) Pharmacies that sell sharps products shall distribute materials provided by the sharps stewardship program to customers upon request.

(6)(a) Each sharps stewardship program shall conduct a survey of residents and a survey of pharmacists and health care professionals to assess awareness of and effectiveness of the public education about the sharps stewardship program and proper disposal of sharps waste. Surveys shall be conducted after the first full year of operation of an approved sharps stewardship program and again every two years thereafter. Surveys must be suitable for and include ethnically diverse populations. Survey questions must be submitted to the department for review and approval. All survey results must be made public on the program's web site.

(b) The department may, upon review of results of public awareness surveys, direct a sharps stewardship program to modify the program's promotion and outreach activities to better achieve widespread awareness among Washington state residents, pharmacists, and health care professionals about where and how to return sharps waste to the program.

NEW SECTION. **Sec.**  PROGRAM FUNDING. (1) A sharps producer or group of sharps producers shall pay all administrative and operational costs associated with establishing and operating the sharps stewardship program in which they participate. Administrative and operational costs include but are not limited to: Sharps waste containers, self-service sharps collection receptacles, prepaid mailers and mail-back materials, collection, transportation, shipping, processing, packaging and shipping supplies and containers, disposal, education and promotion costs, as well as administrative costs of operating the sharps stewardship program and administrative fees charged by the department.

(2) A sharps producer, sharps stewardship program, sharps collection site, or other person may not charge:

(a) A specific point-of-sale fee to consumers to recoup the costs of a sharps stewardship program; or

(b) A specific point-of-collection fee at the time sharps are collected from sharps users.

NEW SECTION. **Sec.**  REPORTING. (1) After each ninety-day period of operation, an approved sharps stewardship program shall submit a quarterly report to the department that provides:

(a) The total amount by weight of sharps waste collected during the previous ninety-day period; and

(b) The total number of sharps waste containers distributed during the previous ninety-day period.

(2) By July 1st after the first full year of operation, and each July 1st thereafter, each approved sharps stewardship program shall submit an annual report to the department describing operation of the sharps stewardship program during the previous calendar year that includes:

(a) A list of all participating sharps producers;

(b) The amount by weight of sharps waste disposed by the program, by each collection method, by each source, and by each sharps collection site;

(c) A list of sharps waste collection sites promoted and serviced by the program;

(d) The total number of calls to the program's toll-free phone number and the number of requests for sharps waste containers, by request method and by type of requestor listed in section 5 of this act;

(e) The number of sharps waste containers provided to residents by zip code and to other entities by type and by zip code;

(f) The number of sharps waste containers returned to the program by zip code;

(g) A list of transporters used for all collected sharps waste;

(h) A list of each disposal method, treatment or disposal facility, and location of final disposal of sharps;

(i) A description of education and outreach activities, including an analysis of the percent of the general public and specific target audiences exposed to promotional messages and the frequency of those exposures;

(j) Program expenditures, provided by program categories that include at a minimum: Administrative costs, costs of purchasing sharps waste containers and mail-back materials, mail and shipping costs, costs of collection supplies, costs of transportation and disposal by method, total reimbursements to public agencies, and costs of promotion;

(k) Progress towards program goals for public awareness, collection amounts, and reduction in sharps improperly disposed in solid waste or recycling streams; and

(l) Progress toward the stewardship program's plan for reducing waste generation through reuse, recycling, and recovery of materials through improved program practices or technologies.

(3) The department shall make all reports available to the public on its web site.

(4) Proprietary information submitted to the department under this chapter is exempt from public disclosure under RCW 42.56.270. The department may use and disclose such information in summary or aggregated form that does not directly or indirectly identify financial, production, or sales data of an individual sharps producer.

NEW SECTION. **Sec.**  ENFORCEMENT AND PENALTIES. (1) For any information required to be submitted by a sharps producer, group of sharps producers, stewardship organization, or sharps stewardship program, the department may request that additional information be provided by a specific date in order to obtain adequate information to determine compliance with this chapter.

(2) The department may audit or inspect the activities and records of a sharps stewardship program to determine compliance with this chapter or investigate a complaint.

(3)(a) The department shall send a written notice to a sharps producer that fails to participate in a sharps stewardship program as required by this chapter. The notice must provide a warning regarding the penalties for violation of this chapter.

(b) A sharps producer that receives a notice under (a) of this subsection may be assessed a penalty if, sixty days after receipt of the notice, the sharps producer continues to sell a covered sharps in or into the state without participating in a sharps stewardship program approved under this chapter.

(4)(a) The department may send a sharps producer, a group of sharps producers, or stewardship organization a written notice warning of the penalties for noncompliance with this chapter if it determines that their sharps stewardship program is in violation of this chapter or does not conform to the plan approved by the department. The department may assess a penalty on participating sharps producers or the stewardship organization if the program does not come into compliance by thirty days after receipt of the notice.

(b) The department may immediately suspend operation of a sharps stewardship program and assess a penalty if it determines that the program is in violation of this chapter and the violation creates a condition that, in the judgment of the department, constitutes an immediate hazard to the public or the environment.

(5) The department shall post on its web site a list of sharps producers that are compliant with this chapter and a list of sharps producers that are noncompliant with this chapter.

(6) In enforcing the requirements of this chapter, the department may:

(a) Require an informal administrative conference;

(b) Require a person or entity to engage in or refrain from engaging in certain activities pertaining to this chapter;

(c) In accordance with RCW 43.70.095, assess a civil fine of up to two thousand dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation. In determining the appropriate amount of the fine, the department shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the entity in violation; and

(d) Not prohibit a sharps producer from selling sharps in or into the state of Washington.

NEW SECTION. **Sec.**  PROGRAM FEE. (1)(a) By July 1, 2021, the department shall:

(i) Determine its costs for the administration, oversight, and enforcement of the requirements of this chapter, pursuant to RCW 43.70.250; and

(ii) Set fees at a level sufficient to recover the costs associated with administration, oversight, and enforcement.

(b) The department shall not impose any fees in excess of its actual administrative, oversight, and enforcement costs.

(c) Adjustments to the department's fees may be made annually and shall not exceed actual administration, oversight, and enforcement costs. Adjustments for inflation may not exceed the percentage change in the consumer price index for all urban consumers in the United States as calculated by the United States department of labor as averaged by city for the twelve-month period ending with June of the previous year.

(d) The department shall collect fees from each sharps producer, group of sharps producers, or stewardship organization that implements or intends to implement a sharps stewardship program by October 1, 2021, and annually thereafter.

(2) All fees collected under this section must be deposited in the sharps stewardship account established in section 14 of this act.

NEW SECTION. **Sec.**  ACCOUNT. The sharps stewardship account is created in the state treasury. All receipts received by the department under this chapter must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department only for administering and enforcing this chapter.

NEW SECTION. **Sec.**  APPLICATION OF THIS CHAPTER. Nothing in this chapter prohibits any other entity from distributing sharps waste containers to patients or providing a no-cost or fee-based sharps waste disposal program for sharps users in Washington state, including sharps collection services provided by a solid waste collection service regulated by the Washington utilities and transportation commission.

NEW SECTION. **Sec.**  TRASH BAN. (1) A person may not intentionally place unprotected sharps or a sharps waste container into a solid waste or recycling container provided by a city, county, or solid waste collection company, or into any other solid waste or recycling collection site, unless there is a designated separate location, separate container, or separate compartment in the container for sharps waste that complies with city, county, or local health department collection standards or guidelines.

(2) Waste and recycling collectors may refuse to pick up a waste or recycling container that contains sharps waste upon simple visual inspection. A waste or recycling collector may not search waste or recycling containers for sharps waste.

(3) No waste or recycling collector may be found in violation of this section for sharps waste that is placed in a disposal container by the generator of the sharps waste.

(4) No solid waste facility or recycling facility may be found in violation of this section if the facility has posted a sign in a conspicuous location stating sharps waste is not accepted.

(5) Local health departments shall enforce this section, primarily through an educational approach regarding proper disposal of residential sharps. On the first and second violation, the health department shall provide a warning to the person that includes information on proper disposal of residential sharps. A subsequent violation shall be a class 3 infraction under chapter 7.80 RCW.

NEW SECTION. **Sec.**  ANTITRUST IMMUNITY. The activities authorized by this chapter require collaboration among sharps producers. These activities will enable safe collection and disposal of sharps waste in Washington state and are therefore in the best interest of the public. The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature intends to exempt from state antitrust laws, and provide immunity through the state action doctrine from federal antitrust laws, activities that are undertaken, reviewed, and approved by the department pursuant to this chapter that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities.

NEW SECTION. **Sec.**  RULE MAKING. The department shall adopt any rules necessary to implement and enforce this chapter no later than one year after the effective date of this section.

NEW SECTION. **Sec.**  NEW CHAPTER. Sections 1 through 18 of this act constitute a new subchapter in chapter 70.95 RCW.

NEW SECTION. **Sec.**  RCW 70.95K.030 (Residential sharps—Disposal—Violation) and 1994 c 165 s 3 are each repealed.

NEW SECTION. **Sec.**  Sections 16 and 20 of this act take effect four years after the effective date of this section.

**--- END ---**