

HOUSE BILL REPORT

HB 2360

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to the sharps waste stewardship program.

Brief Description: Establishing the sharps waste stewardship program.

Sponsors: Representatives Peterson, Fitzgibbon, Robinson, Orwall, Macri, Doglio, Cody and Riccelli.

Brief History:

Committee Activity:

Health Care & Wellness: 1/24/20, 1/31/20 [DP].

Brief Summary of Bill

- Requires sharps manufacturers that sell sharps or drugs that are usually intended to be injected outside a health care setting into Washington to operate a sharps stewardship program to collect and dispose of sharps from consumers.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 9 members: Representatives Cody, Chair; Macri, Vice Chair; Chopp, Davis, Riccelli, Robinson, Stonier, Thai and Tharinger.

Minority Report: Do not pass. Signed by 5 members: Representatives Schmick, Ranking Minority Member; Chambers, DeBolt, Harris and Maycumber.

Staff: Kim Weidenaar (786-7120).

Background:

"Sharps" is a medical term for devices with sharp points or edges that can puncture or cut skin. They may be used at home, at work, and while traveling to manage the medical conditions of people or their pets, including allergies, arthritis, cancer, diabetes, hepatitis,

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HIV, infertility, migraines, multiple sclerosis, osteoporosis, blood clotting disorders, and psoriasis.

The Food and Drug Administration (FDA) recommends that used needles and other sharps be immediately placed in FDA-cleared sharps disposal containers. The FDA-cleared sharps disposal containers are made from rigid plastic and come marked with a line that indicates when the container should be considered full and disposed of. The FDA has evaluated the safety and effectiveness of these containers and has cleared them for use by health care professionals and the public to help reduce the risk of injury and infections from sharps.

Currently in Washington, a person may not intentionally place unprotected sharps or a sharps waste container into recycling containers provided by a city, county, or solid waste collection company, unless that site is specifically designated by a local health department as a drop-off site for sharps waste containers. Local health departments must enforce this prohibition primarily through an educational approach regarding proper disposal of residential sharps, however subsequent violations are class 3 civil infractions.

Summary of Bill:

Sharps Stewardship Program Participation.

Every sharps producer must participate in a sharps stewardship program (program) approved by the Department of Health (Department). A sharps producer may establish and implement a program independently, as part of a group of sharps producers, or through membership in a stewardship organization. A manufacturer that becomes a sharps producer after the act comes into effect, must, within six months of selling or distributing sharps in Washington, participate in or establish an approved program. "Sharps producer" is defined as a person or entity that manufactures sharps or drugs that are usually intended to be injected outside a health care setting that are sold, distributed, or used in Washington. "Sharps user" is defined as any resident or consumer within Washington that uses one or more sharps for the administration of drugs or blood testing outside a health care setting.

Program Approval.

Within 60 days of the adoption of Department rules establishing requirements for program plans, each sharps producer must independently, with a group of sharps producers, or through a stewardship organization, submit a program plan to the Department for approval. To be approved by the Department, a proposed program must:

- identify and provide contact information for the official point of contact of the sharps stewardship program, each participating sharps producer, participating distributors of sharps waste containers, and sharps collection sites for the proposed program;
- provide for a distribution and collection system that complies with all statutory requirements;
- identify any transporters, processing facilities, and waste disposal facilities that the program will use;
- adopt policies and procedures for handling sharps collected under the program to ensure safety and compliance with federal, state, and local laws;

- ensure the security of patient information on sharps packaging during collection, transportation, and disposal;
- provide a detailed plan to promote the program;
- demonstrate adequate funding for all administrative and operational costs with costs apportioned among participating sharps producers;
- set long-term and short-term goals for collection amounts and public awareness; and
- 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.

The Department must approve or reject a program plan within 120 days of receiving the plan. During the plan review, the Department must 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.

If the Department rejects a revised plan, the Department may:

- require the applicants to submit a further revised plan;
- develop and impose changes to the revised plan to address deficiencies;
- require the sharps producer to participate in a previously approved sharps stewardship program; or
- find the sharps producer or sharps producers out of compliance with the requirements and take enforcement action.

An approved program must initiate program operations no later than 90 days after the Department approves the program plan. An approved program must achieve the minimum requirements for number and geographic distribution of sharps collection sites no later than 180 days after program operations are initiated.

Collection System.

A program must provide sharps waste containers and prepaid mail-back materials upon request and at no cost to:

- a sharps user or their household member or caregiver;
- pharmacies, doctor's offices, medical clinics, hospitals, veterinary clinics, home health service providers, home hospice programs, health and social service providers, police stations, fire stations, local health departments, and other public agencies for distribution and use by sharps users; and
- 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.

A program must provide a simple process via a website and toll-free phone number to request sharps containers and mail-back materials. Containers and materials must be sent to the requestor within three business days of a request. The sharps waste containers must be leak-proof, rigid, puncture-resistant red containers, be clearly labeled "not recyclable" and "do not dispose in trash," and include attached instructions for how to return the container.

A program must notify all retail pharmacies, clinics, hospitals, and veterinary clinics in the state of the opportunity to participate voluntarily as a sharps collection site and must include

any of these facilities that offer to participate without compensation. A program must pay for shipping and final disposition of collected sharps waste and form an agreement with each participating collection site to provide either: adequate and ongoing supply of prepaid mailing labels and other packaging; or services for pick up, transportation, and disposal of consolidated sharps waste containers.

Participating sharps collection sites may choose to use a self-service sharps collection receptacle inside the premises of their location that is provided and serviced by the program or to accept filled sharps waste containers directly from sharps user for mail or pick-up services. Participating collection sites may not knowingly include any business-generated sharps waste.

At a minimum a program must ensure that:

- each city or town has at least one sharps collection site, plus at least one additional sharps collection site for every 20,000 residents; and
- sharps collection sites in each city are geographically distributed to provide reasonably convenient and equitable access to all residents.

Public Agency Reimbursement.

A program must include any public agency that offers to participate and must 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. A public agency may accept sharps waste from sharps users, sharps drop-off programs, local entities collecting sharps waste from sharps users, public self-service sharps collection receptacles operated or approved by the public agency, programs providing cleanup of discarded needles in public areas, approved contractors of the public agency providing sharps waste services to sharps users, and facilities removing sharps waste that has contaminated residential waste or recycling streams.

A program must reimburse participating public agencies for costs of purchase and distribution of any sharps waste containers and other collection materials that are not received directly from the sharps stewardship program, purchase of collection supplies, transport of collected sharps from remote collection sites or events to consolidation points, all packaging, liners, and shipping materials required under federal, state, and local laws, and shipping and final disposition of sharps waste from consolidation points.

Program Promotion.

A program must 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. This includes:

- conducting activities to maximize awareness of and participation in the program;
- promoting program services to pharmacies, health care providers, and other entities;
- coordinating with other stewardship programs;
- discouraging residents from disposing of sharps in the solid waste, recycling, or sewer systems; and
- providing toll-free phone number and website publicizing program services.

Reporting.

Each approved program must submit a quarterly report to the Department that provides the total amount by weight of sharps waste collected and sharps waste containers distributed that quarter.

Every July 1, each approved program must submit an annual report describing the operation of the program during the previous calendar year, including:

- the list of all participating sharps producers;
- the amount of sharps waste disposed of by the program by collection method, source, and collection site;
- a list of sharps waste collection sites promoted and serviced by the program;
- the number of calls to the program's toll-free phone number and the number of requests for sharps waste containers;
- the number of sharps waste containers provided to residents by zip code;
- the number of sharps waste containers returned to the program by zip code;
- a list of transporters used for collected sharps waste;
- a list of each disposal method;
- a description of education and outreach methods, program expenditures; and
- progress towards program goals.

Program Funding.

Covered manufacturers must pay all administrative and operational costs associated with establishing and implementing a program. A specific point-of-sale or point-of-collection fee may not be charged. The Department must determine its costs for the administration, oversight, and enforcement of the act, and set fees at a level sufficient to recover these costs.

Enforcement.

The Department may suspend a program and assess a penalty if a violation poses an immediate hazard. It may also require an informal administrative conference, order entities to engage in or refrain from engaging in certain activities pertaining to programs, and assess a fine of up to \$2,000 per day, but it may not prohibit a covered manufacturer from selling a sharps in the state. The Department must adopt any rules necessary to implement and enforce the law.

The Department must post on its website a list of sharps producers that are compliant with this chapter and a list of sharps producers that are noncompliant with this chapter.

For any information required to be submitted by a sharps producer, group of sharps producers, stewardship organization, or 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. 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.

The Legislature intends to exempt from state antitrust laws and provide immunity through the state action doctrine from federal antitrust laws any activities that are undertaken, reviewed, and approved by the Department.

Trash Ban.

The existing trash ban is repealed four years after the effective date of the act, and is replaced with the following ban. 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. Waste and recycling collectors may refuse to pick up a waste or recycling container that contains sharps waste upon simple visual inspection. However, a waste or recycling collector may not search waste or recycling containers for sharps waste.

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. Local health departments must enforce this section, primarily through an educational approach regarding proper disposal of residential sharps, however subsequent violations are a class 3 infraction.

Appropriation: None.

Fiscal Note: Requested on January 15, 2020.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 16, relating to repealing the existing trash ban, and section 20, relating to establishing the new trash ban, which take effect four years after the effective date of the bill.

Staff Summary of Public Testimony:

(In support) This is a public health issue. Sharps are used at home and while people are out and about. This program will help local governments properly dispose of any needles they collect. The cost to the industry will be minimal, but the impact to the state will be significant. Nationally three billion needles are thrown in the trash each year and there are growing problems with illegal drug users. Right now there is no comprehensive solution for safe disposal of sharps and current solutions are not a sustainable way to protect the public and environment. This bill provides uniform standards across the state and was modeled after the successful Drug Take-Back law.

This bill requires manufacturers of sharps and injectable drugs to establish sharps collection sites and provide containers for sharps users, through voluntary participation of pharmacies, clinics, local entities, and other public spaces. The bill sets standards for the program and gives the Department of Health the authority to set requirements for the plans. California attempted to create a volunteer program, but it found that 35 out of the 42 programs received an F grade. Voluntary programs do not work. Manufacturers that are making significant money should be paying for these programs.

Sharps pose risks to individuals and the environment. People discard needles in the trash or flush them so that they wind up in the environment and waterways. Even if people follow current directions to put sharps in plastic bottles, it isn't safe. Those bottles are then compacted in garbage trucks and the needles are no longer contained. This bill will protect city workers and lower costs for waste agencies and local governments. While waste treatment workers are provided with personal protective equipment, needle sticks can happen and needles on the sort line often cause expensive disruptions to the process while needles are removed. Cities have spent significant amounts of money on education campaigns and projects to remove needles from parks and waste facilities, but these problems persist.

(Opposed) Two years ago, the industry and Representative Peterson successfully negotiated the Drug Take-Back program, which took 10 years of negotiation. The bill before you is 28 pages of highly prescriptive language. It creates a new program out of whole cloth that does not fit within Centers for Disease Control and Prevention or the Food and Drug Administration's recommendations. Many manufacturers are currently operating their own programs. The proponents of the bill should work with the industry to see what is working within these programs, identify problems, and then target those areas with specific solutions.

It is not the patient community that is leaving needles in the public or parks. Additionally, most sharps nowadays are safe. They have caps or retract and are not the sort of things out to stick people. This bill inappropriately shifts costs to manufacturers and patients. This program is very expensive but provides little benefit. There is support to partner on what is working, educating the public, and putting resources forward for those targeted solutions.

Persons Testifying: (In support) Representative Macri; Bruce Wishart, Zero Waste Washington; Jessica Gehle, Tacoma-Pierce County Health Department; Lyle Crowley, Recology; Nicole Thomsen, Snohomish County Health District; Mark Johnson, Washington Retail Association; Vicki Christophersen, Washington Refuse and Recycling Association; and Idris Beauregard, Seattle Public Utilities.

(Opposed) Jeff Gombosky, Pharmaceutical Research and Manufacturers of America; and Fielding Greaves, Advanced Medical Technology Association.

Persons Signed In To Testify But Not Testifying: None.