
HOUSE BILL 1161

State of Washington

67th Legislature

2021 Regular Session

By Representatives Peterson, Davis, Pollet, and Thai

Read first time 01/12/21. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to modifying the requirements for drug take-back
2 programs; amending RCW 69.48.010, 69.48.050, 69.48.100, 69.48.120,
3 43.131.423, and 43.131.424; and creating a new section.

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

5 **Sec. 1.** RCW 69.48.010 and 2018 c 196 s 1 are each amended to
6 read as follows:

7 (1) Abuse, fatal overdoses, and poisonings from prescription and
8 over-the-counter medicines used in the home have emerged as an
9 epidemic in recent years. Poisoning is the leading cause of
10 unintentional injury-related death in Washington, and more than
11 ninety percent of poisoning deaths are due to drug overdoses.
12 Poisoning by prescription and over-the-counter medicines is also one
13 of the most common means of suicide and suicide attempts, with
14 poisonings involved in more than twenty-eight thousand suicide
15 attempts between 2004 and 2013.

16 (2) Home medicine cabinets are the most common source of
17 prescription drugs that are diverted and misused. Studies find about
18 seventy percent of those who abuse prescription medicines obtain the
19 drugs from family members or friends, usually for free. People who
20 are addicted to heroin often first abused prescription opiate
21 medicines. Unused, unwanted, and expired medicines that accumulate in

1 homes increase risks of drug abuse, overdoses, and preventable
2 poisonings.

3 (3) A safe system for the collection and disposal of unused,
4 unwanted, and expired medicines is a key element of a comprehensive
5 strategy to prevent prescription drug abuse, but disposing of
6 medicines by flushing them down the toilet or placing them in the
7 garbage can contaminate groundwater and other bodies of water,
8 contributing to long-term harm to the environment and animal life.

9 (4) The legislature therefore finds that it is in the interest of
10 public health to establish a single, uniform, statewide system of
11 regulation for safe and secure collection and disposal of medicines
12 through ~~((a-uniform))~~ drug "take-back" programs operated and funded
13 by drug manufacturers.

14 NEW SECTION. **Sec. 2.** (1) The legislature finds that in 2018,
15 the legislature passed Engrossed Substitute House Bill No. 1047,
16 which required drug manufacturers that sell drugs into Washington to
17 operate a drug take-back program to collect and dispose of
18 prescription and over-the-counter drugs. Further, the legislature
19 finds that there is uncertainty about whether, under current law,
20 more than one drug take-back program may operate.

21 (2) Therefore, the legislature intends to clearly authorize the
22 department of health to approve and allow the operation of multiple
23 drug take-back programs that meet other statutory requirements.

24 **Sec. 3.** RCW 69.48.050 and 2018 c 196 s 5 are each amended to
25 read as follows:

26 (1) ~~((By July 1, 2019, a))~~ A program operator must submit a
27 proposal for the establishment and implementation of a drug take-back
28 program to the department for approval. The department shall approve
29 a proposed program if the applicant submits a completed application,
30 the proposed program meets the requirements of subsection (2) of this
31 section, and the applicant pays the appropriate fee established by
32 the department under RCW 69.48.120. The department may approve one or
33 more program operators consistent with the provisions of this
34 section.

35 (2) To be approved by the department, a proposed drug take-back
36 program must:

37 (a) Identify and provide contact information for the program
38 operator and each participating covered manufacturer;

1 (b) Identify and provide contact information for the authorized
2 collectors for the proposed program, as well as the reasons for
3 excluding any potential authorized collectors from participation in
4 the program;

5 (c) Provide for a collection system that complies with RCW
6 69.48.060;

7 (d) Ensure that physical collection sites are the primary method
8 of collection and that methods of supplementing physical collection
9 site service are the secondary methods for collection. Mail-back
10 distribution locations should account for 25 percent or less of a
11 program's collection sites. Periodic collection events should account
12 for 10 percent or less of a program's collection sites. For the
13 purposes of this calculation, each periodic collection event equates
14 to a single collection site;

15 (e) Provide for a handling and disposal system that complies with
16 RCW 69.48.080;

17 ~~((e))~~ (f) Identify any transporters and waste disposal
18 facilities that the program will use;

19 ~~((f))~~ (g) Adopt policies and procedures to be followed by
20 persons handling covered drugs collected under the program to ensure
21 safety, security, and compliance with regulations adopted by the
22 United States drug enforcement administration, as well as any
23 applicable laws;

24 ~~((g))~~ (h) Ensure the security of patient information on drug
25 packaging during collection, transportation, recycling, and disposal;

26 ~~((h))~~ (i) Promote the program by providing consumers,
27 pharmacies, and other entities with educational and informational
28 materials as required by RCW 69.48.070;

29 ~~((i))~~ (j) Demonstrate adequate funding for all administrative
30 and operational costs of the drug take-back program, with costs
31 apportioned among participating covered manufacturers;

32 ~~((j))~~ (k) Set long-term and short-term goals with respect to
33 collection amounts and public awareness; and

34 ~~((k))~~ (l) Consider: (i) The use of existing providers of
35 pharmaceutical waste transportation and disposal services; (ii)
36 separation of covered drugs from packaging to reduce transportation
37 and disposal costs; and (iii) recycling of drug packaging.

38 (3) (a) No later than one hundred twenty days after receipt of a
39 drug take-back program proposal, the department shall either approve
40 or reject the proposal in writing to the applicant. The department

1 may extend the deadline for approval or rejection of a proposal for
2 good cause. If the department rejects the proposal, it shall provide
3 the reason for rejection.

4 (b) No later than ninety days after receipt of a notice of
5 rejection under (a) of this subsection, the applicant shall submit a
6 revised proposal to the department. The department shall either
7 approve or reject the revised proposal in writing to the applicant
8 within ninety days after receipt of the revised proposal, including
9 the reason for rejection, if applicable.

10 (c) If the department rejects a revised proposal, the department
11 may:

12 (i) Require the program operator to submit a further revised
13 proposal;

14 (ii) Develop and impose changes to some or all of the revised
15 proposal to address deficiencies;

16 (iii) Require the covered manufacturer or covered manufacturers
17 that proposed the rejected revised proposal to participate in a
18 previously approved drug take-back program; or

19 (iv) Find the covered manufacturer out of compliance with the
20 requirements of this chapter and take enforcement action as provided
21 in RCW 69.48.110.

22 (4) The program operator must initiate operation of an approved
23 drug take-back program no later than one hundred eighty days after
24 approval of the proposal by the department.

25 (5)(a) Proposed changes to an approved drug take-back program
26 that substantially alter program operations must have prior written
27 approval of the department. A program operator must submit to the
28 department such a proposed change in writing at least fifteen days
29 before the change is scheduled to occur. Changes requiring prior
30 approval of the department include changes to participating covered
31 manufacturers, collection methods, achievement of the service
32 convenience goal described in RCW 69.48.060, policies and procedures
33 for handling covered drugs, education and promotion methods, and
34 selection of disposal facilities.

35 (b) For changes to a drug take-back program that do not
36 substantially alter program operations, a program operator must
37 notify the department at least seven days before implementing the
38 change. Changes that do not substantially alter program operations
39 include changes to collection site locations, methods for scheduling

1 and locating periodic collection events, and methods for distributing
2 prepaid, preaddressed mailers.

3 (c) A program operator must notify the department of any changes
4 to the official point of contact for the program no later than
5 fifteen days after the change. A program operator must notify the
6 department of any changes in ownership or contact information for
7 participating covered manufacturers no later than ninety days after
8 such change.

9 (6) (~~No later than four years after a drug take-back program~~
10 ~~initiates operations~~) By July 1, 2024, and every four years
11 thereafter, ~~((the))~~ all program operators must submit an updated
12 proposal to the department describing any substantive changes to
13 program elements described in subsection (2) of this section. The
14 department shall approve or reject the updated proposal using the
15 process described in subsection (3) of this section.

16 (7) If there is a single program operator in operation at any
17 time and that operator intends to leave the program for any reason,
18 the department must solicit new proposals. The department may approve
19 a proposal if it meets the requirements in subsection (2) of this
20 section and the applicant pays the appropriate fee established by the
21 department under RCW 69.48.120. The department approves or rejects
22 proposals received using the process described in subsection (3) of
23 this section.

24 (8) A covered manufacturer may change the approved program it
25 participates in but must maintain continuous participation in an
26 established drug take-back program and may not leave an approved
27 take-back program until it transfers participation to an approved
28 program that has begun drug collection.

29 (9)(a) In the event that a program operator for the drug take-
30 back program leaves the program for any reason, all covered
31 manufacturers that participated in that program must immediately join
32 an existing approved drug take-back program.

33 (b) In the event that there is a single drug take-back program
34 operator, and that program operator leaves the program, all covered
35 manufacturers must join an approved drug take-back program as soon as
36 one is approved.

37 (10) The department shall make all proposals submitted under this
38 section available to the public and shall provide an opportunity for
39 written public comment on each proposal.

1 **Sec. 4.** RCW 69.48.100 and 2018 c 196 s 10 are each amended to
2 read as follows:

3 (1) By July 1st after the first full year of implementation, and
4 each July 1st thereafter, ((a)) each program operator must submit to
5 the department a report describing implementation of the drug take-
6 back program during the previous calendar year. The report must
7 include:

8 (a) A list of covered manufacturers participating in the drug
9 take-back program;

10 (b) The amount, by weight, of covered drugs collected, including
11 the amount by weight from each collection method used;

12 (c) The following details regarding the program's collection
13 system: A list of collection sites with addresses; the number of
14 mailers provided; locations where mailers were provided, if
15 applicable; dates and locations of collection events held, if
16 applicable; and the transporters and disposal facility or facilities
17 used;

18 (d) Whether any safety or security problems occurred during
19 collection, transportation, or disposal of covered drugs, and if so,
20 completed and anticipated changes to policies, procedures, or
21 tracking mechanisms to address the problem and improve safety and
22 security;

23 (e) A description of the public education, outreach, and
24 evaluation activities implemented;

25 (f) A description of how collected packaging was recycled to the
26 extent feasible;

27 (g) A summary of the program's goals for collection amounts and
28 public awareness, the degree of success in meeting those goals, and
29 if any goals have not been met, what effort will be made to achieve
30 those goals the following year; and

31 (h) The program's annual expenditures, itemized by program
32 category.

33 (2) Within thirty days after each annual period of operation of
34 an approved drug take-back program, the program operator shall submit
35 an annual collection amount report to the department that provides
36 the total amount, by weight, of covered drugs collected from each
37 collection site during the prior year.

38 (3) The department shall make reports submitted under this
39 section available to the public through the internet.

1 **Sec. 5.** RCW 69.48.120 and 2018 c 196 s 12 are each amended to
2 read as follows:

3 (1) (a) (~~By July 1, 2019, the~~) The department shall: Determine
4 its costs for the administration, oversight, and enforcement of the
5 requirements of this chapter, including, but not limited to, a fee
6 for proposal review, and the survey required under RCW 69.48.200;
7 pursuant to RCW 43.70.250, set fees at a level sufficient to recover
8 the costs associated with administration, oversight, and enforcement;
9 and adopt rules establishing requirements for program operator
10 proposals.

11 (b) The department shall not impose any fees in excess of its
12 actual administrative, oversight, and enforcement costs. The fees
13 collected from each program operator in calendar year 2020 and any
14 subsequent year may not exceed ten percent of the program's annual
15 expenditures as reported to the department in the annual report
16 required by RCW 69.48.100 and determined by the department.

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

24 (d) The department shall collect fees from each program operator
25 by October 1, 2019, and annually thereafter.

26 (2) All fees collected under this section must be deposited in
27 the secure drug take-back program account established in RCW
28 69.48.130.

29 **Sec. 6.** RCW 43.131.423 and 2018 c 196 s 26 are each amended to
30 read as follows:

31 The authorization for drug take-back programs created in chapter
32 196, Laws of 2018 and chapter . . ., Laws of 2021 (sections 1 through
33 5 of this act) shall be terminated on January 1, 2029, as provided in
34 RCW 43.131.424.

35 **Sec. 7.** RCW 43.131.424 and 2018 c 196 s 27 are each amended to
36 read as follows:

37 The following acts or parts of acts, as now existing or hereafter
38 amended, are each repealed, effective January 1, 2030:

1 (1) RCW 69.48.010 and 2021 c . . . s 1 (section 1 of this act) &
2 2018 c 196 s 1;
3 (2) RCW 69.48.020 and 2018 c 196 s 2;
4 (~~(2)~~) (3) RCW 69.48.030 and 2018 c 196 s 3;
5 (~~(3)~~) (4) RCW 69.48.040 and 2018 c 196 s 4;
6 (~~(4)~~) (5) RCW 69.48.050 and 2021 c . . . s 3 (section 3 of this
7 act) & 2018 c 196 s 5;
8 (~~(5)~~) (6) RCW 69.48.060 and 2018 c 196 s 6;
9 (~~(6)~~) (7) RCW 69.48.070 and 2018 c 196 s 7;
10 (~~(7)~~) (8) RCW 69.48.080 and 2018 c 196 s 8;
11 (~~(8)~~) (9) RCW 69.48.090 and 2018 c 196 s 9;
12 (~~(9)~~) (10) RCW 69.48.100 and 2021 c . . . s 4 (section 4 of
13 this act) & 2018 c 196 s 10;
14 (~~(10)~~) (11) RCW 69.48.110 and 2018 c 196 s 11;
15 (~~(11)~~) (12) RCW 69.48.120 and 2021 c . . . s 5 (section 5 of
16 this act) & 2018 c 196 s 12;
17 (~~(12)~~) (13) RCW 69.48.130 and 2018 c 196 s 13;
18 (~~(13)~~) (14) RCW 69.48.140 and 2018 c 196 s 14;
19 (~~(14)~~) (15) RCW 69.48.150 and 2018 c 196 s 15;
20 (~~(15)~~) (16) RCW 69.48.160 and 2018 c 196 s 16;
21 (~~(16)~~) (17) RCW 69.48.170 and 2018 c 196 s 17;
22 (~~(17)~~) (18) RCW 69.48.180 and 2018 c 196 s 18;
23 (~~(18)~~) (19) RCW 69.48.190 and 2018 c 196 s 19; and
24 (~~(19)~~) (20) RCW 69.48.200 and 2018 c 196 s 20.

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