

Legislative Fiscal Office

Oregon State Capitol
900 Court Street NE, H-178
Salem, OR 97301
503-986-1828

Ken Rocco, Legislative Fiscal Officer
Paul Siebert, Deputy Legislative Fiscal Officer



Joint Committee on Ways and Means

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To: Natural Resource Subcommittee

From: Kim To, Legislative Fiscal Office

Date: June 11, 2019

Subject: HB 3273 – Relating to drugs
Work Session Recommendations

HB 3273 requires certain specified manufacturers to use program operators to participate in a drug take-back program. Covered manufacturers must pay all costs associated with participating in a drug take-back program. A program operator of a drug take-back program must be organized as an entity that is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code. The measure exempts program operators from antitrust laws. With passage of the measure, the Department of Environmental Quality (DEQ) and the Oregon Board of Pharmacy (OBOP) will be is responsible for ensuring compliance with the drug take-back program.

The measure specifies required elements of the plan that a program operator of a drug take-back program must submit to DEQ in order to participate in a drug take-back program. Within four years after DEQ approves a plan, the operator must submit to DEQ an updated plan for continued operation of the program. In addition, an operator must request preapproval from DEQ for any change to a drug take-back program that substantively alters the drug take-back program. A program operator must submit an annual report to DEQ for review and approval. If DEQ does not approve the report, the department must provide the operator with written notice of necessary revisions and a timeline for resubmittal. DEQ must publish approve reports on its website. DEQ must send notices to manufacturers that fail to participate in a drug take-back program. The notices must explain possible penalties. Program operators must conduct a survey once every two years of covered entities and pharmacists, health care providers and veterinarians who interact with covered entities. DEQ must prescribe the form and manner of the survey. Program operators must submit proposed survey questions to DEQ for preapproval. Program operator must submit to DEQ an annual report on the development, implementation and operation of the drug take-back program. DEQ must report to the Legislature by July 1, 2021 describing the administration of the drug take-back program.

DEQ estimates the fiscal impact of this bill to be \$258,202 Other Funds and 2 positions (0.94 FTE) for the 2019-21 biennium; and \$144,586 Other Funds and 1 position (0.50 FTE)

for the 2021-23 biennium. These amounts reflect one limited duration, half-time Operations and Policy Analyst 1 position to help create the program and one permanent half-time Operations and Policy Analyst 2 position to oversee the operation of the drug take-back program, including working with program operators to evaluate and update plans.

The measure authorizes DEQ to assess fees to pay the costs of administering the program. The measure specifies fines and penalties that DEQ may impose on manufacturers and operators not in compliance. The measure establishes the Secure Drug Take-Back Account and moneys in the account are continually appropriated to DEQ. DEQ is required to deposit moneys collected through the imposition of civil penalties and fees into the Secure Drug Take-Back Account. Although fees charged will be based on actual costs, and the amount of the specific fees will need to be established through the rule making process, DEQ projects the need for revenues from fees to be about \$350,000 for the first biennium and \$175,000 for subsequent biennia.

The -A14 is the combined -A9, -A11, and -A13 amendments. The -A14 amendment:

- Defines terms including analogous product, antitoxin, therapeutic serum, toxin and virus.
- Stipulates that this 2019 Act supersedes and preempts any local ordinance or other regulation enacted before, on or after the effective date of this 2019 Act.
- Removes the September 15, 2031 sunset.
- Changes the calculations of allocating the cost of the program among manufacturers.
- Changes “prescription drugs” to “covered drugs” in reference to calculations of allocating the cost of the program among manufacturers.
- Adds \$258,202 in Other Funds limitation for the Department of Environmental Quality to establish the Drug Take Back Program.

Recommended Changes

LFO recommends adoption of the -A14 amendment.

MOTION: I move adoption of the -A14 amendment to HB 3273. (VOTE)

Final Subcommittee Action

LFO recommends that HB 3273, as amended by the -A14 amendment, to be moved to the Ways and Means Full Committee.

MOTION: I move HB 3273, as amended, to the Full Committee with a do pass recommendation. (VOTE)

Carriers

Full Committee: _____

House Floor: _____

Senate Floor: _____