

## 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

Sen. Betsy Johnson, Senate Co-Chair  
Sen. Elizabeth Steiner Hayward, Senate Co-Chair  
Rep. Dan Rayfield, House Co-Chair

Sen. Jackie Winters, Senate Co-Vice Chair  
Rep. David Gomberg, House Co-Vice Chair  
Rep. Greg Smith, House Co-Vice Chair

**To:** Capital Construction Subcommittee

**From:** Kim To, Legislative Fiscal Office

**Date:** June 18, 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 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 approved 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 operators 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 -A15 is the combined -A9, and -A11 amendments. The -A15 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.
- 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 -A15 amendment.

**MOTION: I move adoption of the -A15 amendment to HB 3273. (VOTE)**

### **Final Subcommittee Action**

LFO recommends that HB 3273, as amended by the -A15 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: \_\_\_\_\_