

5. State Legislation Regarding Disposal and Donation of Medicines

Currently, the United States does not have Federal regulations on proper handling of unwanted medicines; however disposal advice for individuals has been developed by the Office of National Drug Control Policy:

http://www.whitehousedrugpolicy.gov/publications/pdf/prescrip_disposal.pdf

A summary of the key legislative actions in the last year (2008-2009) are included below, followed by a list of laws that passed prior to 2008. See the Product Stewardship Institute website for further details and links:

<http://www.productstewardship.us/displaycommon.cfm?an=1&subarticlenbr=540>

National legislation: H.R. 1191: Safe Drug Disposal Act of 2009 was introduced by Congressman Jay Inslee (D-WA) and 20 co-sponsors on 2/25/09. (<http://www.govtrack.us/congress/bill.xpd?bill=h111-1191>). The last action was on 3/16/09 (House Judiciary referred it to the Subcommittee on Crime, Terrorism, and Homeland Security). Also introduced in the 111th Congress as S. 1336 by Sen. Patty Murray (D-WA).

- Seeks to amend the Controlled Substances Act to provide for disposal of controlled substances by ultimate users and care takers through State take-back disposal programs, to amend the Federal Food, Drug, and Cosmetic Act to prohibit recommendations on drug labels for disposal by flushing, and for other purposes.
- Specifically, this bill directs the DEA to, within one year, create five approved drug take back program models from which states may choose and implement.

A similar bill, H.R. 1359: Secure and Responsible Drug Disposal Act of 2009 was introduced by Congressmen Bart Stupak (D-MI) and Lamar Smith (R-TX) on 3/5/09 (<http://www.govtrack.us/congress/bill.xpd?bill=h111-1359>). The last action was on 4/27/09 (House Judiciary referred it to the Subcommittee on Crime, Terrorism, and Homeland Security). Also introduced in the 111th Congress as S. 1292 by Sen. Amy Klobuchar (D-MN).

- Seeks to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

Stewardship legislation: Both Maine (House Bill 055701) and Washington (Second Substitute House Bill 1165) have bills pending that identify and address funding for unwanted medicines collection programs. These bills identify who is responsible for the costs of collection and what the expected outcomes are from sustainable collection efforts. Similar legislation is pending in MN, FL and OR.

Hospital Disposal of unneeded medicines: In 2009 the state of Illinois passed SB 1919: Safe Pharmaceutical Disposal Act, which prohibits health care institutions from flushing unused medications into public wastewater. Other legislation will track water usage by high capacity wells throughout the state. The new law provides that health care institutions may not discharge,

dispose, flush, pour or empty any unused medication into a public wastewater collection system or septic system. Violators are subject to a fine.

<http://www.ilga.gov/legislation/BillStatus.asp?DocNum=1919&GAID=10&DocTypeID=SB&SessionID=76&GA=96>

In 2007, over 500 state pharmaceutical bills and resolutions were filed on topics including discount and subsidy programs; marketing and advertising; privacy and data mining; electronic monitoring and internet prescribing; and prescription drug reuse/recycling/disposal¹. In 2008, more than 550 pharmaceutical bills and resolutions were under consideration in at least 41 states plus Washington DC; over 100 were newly filed in 2008 legislative sessions while the rest were carried over from 2007². State legislation that has passed or has been proposed relating to unwanted medicines disposal is outlined below.

A. Laws passed

1. Take-back for consumers (Maine)

Public Law 2003, chapter 679 creates the Unused Pharmaceutical Disposal Program, administered by the **Maine** Drug Enforcement Agency, to provide for the safe and effective disposal of consumers' unneeded or expired *prescription* drugs. The program involves the use of prepaid mailers to be made available to the public to mail unneeded or expired prescription drugs to a single collection location. The drugs received may be handled only by agency officers and must be disposed of in a manner that ensures the safety of the public and the environment.

The law allows the Maine Drug Enforcement Agency to randomly assess materials received under the program. Under this law, return of pharmaceuticals under this program is considered to be for law enforcement purposes (in order to comply with DEA requirements).² The full text of [Public Law 2003, chapter 679](#) is included on our website (<http://www.iisgcp.org/unwantedmeds/ch5.html>).

The director of the Maine DEA is authorized to accept funding from private sources to carry out the purposes of the program, but the law prohibits the use of public funding for the program or for the Maine Drug Return Implementation Group. The law took effect on July 1, 2005, but due to lack of funding, it is not currently being implemented.³

The state legislature passed a bill (2007) providing a one-time grant to provide match to funding provided by U.S. EPA for this program.

2. Reverse Distribution for Pharmacies (Indiana)

Indiana has a law providing for disposal of *undispensed* drugs, establishing requirements for a take-back program and facilitating enforcement by requiring that: "After July 1, 2006, a pharmacist may not dispense a legend drug⁴ or controlled drug unless the pharmacist has satisfactory evidence that the wholesaler or manufacturer of the drug has a procedure for the

¹ National Conference of State Legislatures online report <http://www.ncsl.org/programs/health/drugbill07.htm>

² National Conference of State Legislatures online report <http://www.ncsl.org/programs/health/drugbill08.htm>

³ Law summary from the Maine state legislature's Office of Policy and Legal Analysis

<http://www.maine.gov/legis/opla/homepage.htm>

⁴ Ann Pistell, Maine Department of Environmental Protection, personal communication Nov. 1 2006.

⁵ "Legend drug" refers to prescription-only medications

return of expired drugs that complies with rules adopted by the board under section 4(b)(3) of this chapter.”

See <http://www.in.gov/legislative/bills/2005/HB/HB1098.1.html>

3. Donation Scheme for Pharmacies, Hospitals, Manufacturers, and Distributors

To view a list of states that have passed or proposed laws regarding prescription drug reuse or recycling, visit the National Conference of State Legislatures web site

<http://www.ncsl.org/programs/health/drugbill08.htm>

For example, since 2003, **Indiana** has made provisions for a donation program for pharmacists, pharmacies, drug manufacturers, wholesale drug distributors, hospitals, health care facilities and nonprofit health clinics to collect unused medications for distribution to patients at nonprofit health clinics. They can accept medications from any of the above parties, as well as from consumers *if* the drugs are unopened and were originally issued to a patient in a hospice program or hospital (this is to require medical professional oversight to ensure that proper storage practices were followed). See

<http://www.in.gov/legislative/bills/2003/SB/SB0507.2.html>

Illinois' House Bill 3868 would introduce a repository program where individuals as well as pharmacies and hospitals can donate unused, unopened prescription medications to be distributed to non-profit health care centers. It was referred to the rules committee March 10, 2005. See

<http://www.ilga.gov/legislation/94/HB/PDF/09400HB3868lv.pdf>

B. Proposed Legislation

A table prepared by the National Conference of State Legislatures summarizes the 2008 prescription legislation topic by state legislative sessions nationwide. The table can be found at <http://www.ncsl.org/programs/health/drugbill08.htm>.

Several state legislatures have bills currently in committee that relate to medicine collection programs, highlighted below:

1. Take-back for consumers (Illinois, Massachusetts, California, Pennsylvania, Michigan, New York, Washington)

In 2005-2006, **Illinois** debated but did not pass Senate Bill SB0116 which would establish a planning committee and budget to develop a pilot medical return program (possibly a mail-back program like that in Maine). See <http://www.ilga.gov/legislation/94/SB/09400SB0116.htm>.

A related bill was introduced in the House this term (2007) as Amendment 001 to House Bill 2277, cosponsored by Representatives Jack McGuire and Naomi Jakobsson. It was referred to the Rules Committee May 3, 2007.

<http://www.ilga.gov/legislation/95/HB/PDF/09500HB2277lv.pdf>.

Massachusetts' House Bill 2182 is also similar to that in Maine, establishing a task force and charging it with developing a pilot take-back program for consumers' medicines.

www.mass.gov/legis/bills/house/185/ht02pdf/ht02182.pdf

In **California**, state legislators introduced a bill in February 2007 that would require all retailers of pharmaceuticals (both prescription and over-the-counter) to provide collection systems for safe disposal of consumers' excess medicines. www.leginfo.ca.gov/pub/07-

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08/bill/sen/sb_0951-1000/sb_966_bill_20070223_introduced.html. This bill, SB 966, passed the Senate and the Assembly, and was sent to the governor in September 2007 (for bill history see http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_966&sess=CUR&house=B&site=sen). In October 2007, Governor Arnold Schwarzenegger signed legislation requiring the state's Integrated Waste Management Board to develop by the end of the 2008 model programs for the collection and proper disposal of household pharmaceuticals. See http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0951-1000/sb_966_bill_20071012_chaptered.pdf.

State legislators in **Pennsylvania** have proposed to the General Assembly of Pennsylvania House Bill No. 2073, which would require retailers of pharmaceutical drugs to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal and impose civil penalties. This bill was referred to the Committee on Natural Resources and Energy on November 29, 2007. The act shall be known as the Pharmaceutical Drug Disposal Act. The goal is to establish a program by July 1, 2009 that ensures the safe and environmentally sound disposal of pharmaceutical drugs that is convenient for consumers and cost effective for retailers. www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=H&billTyp=B&billNbr=2073&pn=2908

Michigan's House Bill 5186 would mandate the creation of a disposal and recycling program for consumers' prescription drugs. It was referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment in September, 2005. See www.legislature.mi.gov/documents/2005-2006/billintroduced/House/htm/2005-HIB-5186.htm

New York's State Assembly Bill A840 proposed in January 2007 would prohibit the disposal of drugs as solid waste in a landfill; requires drug manufacturers to establish drug collection programs to accept unused or expired drugs from consumers; require consumers to return drugs to such a drug collection program; require all drugs collected by a manufacturer to be disposed of in an environmentally sound manner; direct the department of environmental conservation to establish and implement a public information program on the proper disposal of drugs; require pharmacies and other retailers to post information on the proper use, storage and disposal of drugs. See <http://assembly.state.ny.us/leg/?bn=A840>. This legislation outlines the responsibilities of all parties: pharmaceutical manufacturers, the State of New York, and consumers. As of January 9, 2008, the bill was referred to the Environmental Conservation Committee.

In **Washington**, House Bill 2600 proposed on January 10, 2008, would create a producer managed and funded product stewardship program to collect and dispose of unwanted residential drugs. Every producer of covered products sold in or into the state would be required to participate in the program by January 1, 2010. The bill also provides that a producer or group of producers who operates or wishes to operate a product stewardship program, or a stewardship organization that operates or wishes to operate a program on a producer's behalf, must submit a plan. The bill also provides that the Washington state Board of Pharmacy and the Department of Ecology may adopt any rules necessary to enact, implement, administer, and enforce this act. See <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2600&year=2007>