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THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1194 Session of 2013

INTRODUCED BY O'BRIEN, MUNDY, SWANGER, CALTAGIRONE, P. DALEY, CARROLL, CRUZ, DeLUCA, KORTZ, MCCARTER, MOLCHANY AND READSHAW, APRIL 15, 2013

REFERRED TO COMMITEE ON ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 15, 2013

AN ACT

Requiring retailers of pharmaceutical drugs to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal; providing for remedies; and conferring powers and duties on the Attorney General, the Department of Environmental Protection and the Department of Health.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Pharmaceutical Drug Disposal Act.

Section 2. Statement of policy.

The General Assembly finds and declares as follows:

(1) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80% of the streams had measurable concentrations of prescription and nonprescription drugs, steroids and reproductive hormones.

(2) Exposure even to low levels of pharmaceuticals has

been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

(3) In order to reduce the likelihood of improper disposal of pharmaceuticals, it is necessary to establish a program which ensures the safe and environmentally sound disposal of pharmaceutical drugs in a manner which is convenient for consumers and cost effective for retailers.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Consumer." An individual who purchases a pharmaceutical drug for personal or household use.

"Department." The Department of Environmental Protection of the Commonwealth.

"Distributor." A person that is in the business of making sales to retailers.

"Electronic." Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

"Pharmaceutical drug." A prescription or over-the-counter drug. The term includes a drug as defined in section 2 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 321(g)(1)).

"Retailer." A person that makes a retail sale in this Commonwealth.

"Retail sale." A sale to a consumer. The term does not include a wholesale transaction between a distributor and a

retailer.

"Sale." Transfer of ownership of a pharmaceutical drug in return for payment. The term includes a transaction conducted in person or through electronic means.

Section 4. Administration.

(a) Regulations.--To implement this act, the department, in consultation with the Department of Health, shall promulgate regulations to do all of the following:

(1) Ensure the proper disposal of pharmaceutical drugs.

(2) Ensure the protection of:

(i) public health and safety;

(ii) health and safety of employees of retailers; and

(iii) the environment.

(b) Educational materials.--The department shall provide educational materials to consumers concerning:

(1) the program under section 5; and

(2) proper and improper disposal of pharmaceutical drugs.

Section 5. Program.

(a) Requirement.--A retailer shall maintain a system for the acceptance and collection of pharmaceutical drugs for proper disposal.

(b) Elements.--The system must include at least the following elements:

(1) The return to the retailer at no cost to the consumer of a pharmaceutical drug of the type or brand that the retailer sells or previously sold.

(2) A notice to consumers which provides consumers access to obtain more information about the opportunities and

locations for no-cost pharmaceutical drug recycling. This paragraph includes Internet website links and telephone numbers.

(3) Information made available to consumers concerning pharmaceutical drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This paragraph includes:

(i) Signage which is prominently displayed and easily visible to the consumer.

(ii) Written materials provided to the consumer at the time of purchase or delivery, or both.

(iii) Reference to the pharmaceutical drug return opportunity in retailer advertising.

(iv) Direct communications with the consumer at the time of purchase.

Section 6. Enforcement.

(a) Violation.--A retailer that is not in compliance with section 5 may not make a retail sale. Each retail sale shall constitute a separate violation.

(b) Remedies.--For a violation under subsection (a), the following apply:

(1) The Attorney General may bring an action for:

(i) injunctive relief; and

(ii) a civil penalty of no more than $10,000.

(2) The court may impose costs and attorney fees upon the violator.

Section 20. Effective date.

This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) Section 4.

(ii) This section.

(2) Section 5 shall take effect in 180 days.

(3) The remainder of this act shall take effect in 60 days.