PRINTER'S NO. 28

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 33 Session of 2009

INTRODUCED BY M. O'BRIEN, DePASQUALE, BEYER, JOSEPHS, MUNDY, DONATUCCI, HARKINS, McILVAINE SMITH, MELIO, PRESTON, SIPTROTH, K. SMITH, STURLA, HENNESSEY, GIBBONS AND WALKO, JANUARY 26, 2009

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 26, 2009

AN ACT

Requiring retailers of pharmaceutical drugs to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal; and imposing civil penalties.

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% 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 the purpose of this act to establish a program that ensures the safe and environmentally sound disposal of pharmaceutical drugs that 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 purchaser or owner of a pharmaceutical drug. The term does not include a business, corporation, limited partnership or any entity involved in a wholesale transaction between a distributor and retailer.

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

"Pharmaceutical drug." A prescription or over-the-counter drug, including, but not limited to, 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 or entity that makes a retail sale of a pharmaceutical drug to a consumer in this Commonwealth.

"Sale." Includes, but is not limited to, transactions conducted through sales outlets, catalogs or the Internet or any other similar electronic means, but does not include a sale that is a wholesale transaction involving a distributor or retailer.

Section 4. Collection of pharmaceutical drugs.

(a) General rule.--On or after July 1, 2009, each retailer shall have in place a system for the acceptance and collection

of pharmaceutical drugs for proper disposal.

(b) Elements.--A system for the acceptance and collection of pharmaceutical drugs for proper disposal shall at a minimum include the following elements:

(1) The take back by 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 that includes informational materials, including, but not limited to, Internet website links or a telephone number, placed on the invoice or purchase order or packaged with the pharmaceutical drug, that provides consumers access to obtain more information about the opportunities and locations for no-cost pharmaceutical drug recycling.

(3) Information made available to consumers about pharmaceutical drug return opportunities provided by the retailer and encouraging consumers to utilize those opportunities. This information may include, but is not limited to, the following:

(i) Signage that 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 take-back opportunity in retailer advertising or other promotional materials, or both.

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

(c) Alternative.--If a retailer participates in an existing pharmaceutical drug take-back system and the system otherwise

complies with the requirements of this act, the retailer may continue to participate in the existing program in lieu of complying with the program under this act.

(d) Regulations.--The department, in consultation with the Department of Health, shall promulgate regulations that ensure the proper disposal of pharmaceutical drugs, pursuant to all applicable laws, and ensure the protection of public health and safety, the environment and the health and safety of retail employees.

(e) Educational materials.--The department shall provide educational materials to consumers informing them of the availability of the pharmaceutical drug disposal program and what constitutes proper and improper disposal of pharmaceutical drugs.

Section 5. Enforcement.

(a) Violation.--On and after July 1, 2009, it is unlawful for a retailer to sell a pharmaceutical drug to a consumer unless the retailer complies with this act.

(b) Penalty.--The Attorney General may bring an action for injunctive relief, costs and attorney fees, and a civil penalty the court may impose on a retailer that fails to comply with the requirements of this act a civil penalty of no more than $10,000 per violation. Each unlawful failure to provide for pharmaceutical drug disposal shall constitute a separate violation.

Section 6. Effective date.

This act shall take effect immediately.