

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: SB 626

INTRODUCER: Senator Richter

SUBJECT: Collection and Disposal of Household Pharmaceuticals

DATE: February 27, 2012 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------------|
| 1. | Wiggins | Yeatman | EP | Fav/1 amendment |
| 2. | Looke | Stovall | HR | Favorable |
| 3. | Pigott | DeLoach | BGA | Pre-meeting |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

This bill requires the Department of Environmental Protection (DEP) to establish a grant program to reimburse local law enforcement agencies for the expenses associated with the collection and proper disposal of household pharmaceuticals.

This bill also imposes a new \$21 surcharge against persons who violate certain statutes regulating controlled substances in order to pay for the grant program. Of the \$21 surcharge, \$20 will fund the grant program, and \$1 will be retained by the clerk of the court that imposed the surcharge.

This bill creates sections 403.745 and 938.16, Florida Statutes.

II. Present Situation:

According to the DEP, there are two main issues related to pharmaceutical disposal, drug diversion and environmental impacts.

Drug Diversion

A recent Florida Department of Law Enforcement report found that legal prescription drugs were found to be the cause of more deaths than illegal drugs¹ and “studies show that a majority of prescription drugs are obtained from family and friends.”² Section 499.005, F.S., prohibits certain specific acts regarding prescription drugs including, but not limited to, “[t]he sale or transfer of a prescription drug to a person that is not authorized under the law of the jurisdiction in which the person receives the drug to purchase or possess prescription drugs from the person selling or transferring the prescription drug...[and the] purchase or receipt of a prescription drug from a person that is not authorized under this chapter to distribute prescription drugs to that purchaser or recipient.” Such acts are criminalized and punishable as provided in s. 499.0051, F.S.

Controlled substances with the potential for abuse are regulated under ch. 893, F.S., which sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act, and classifies controlled substances into five categories, known as schedules. The distinguishing factors between the schedule of one substance when compared with another is the potential for abuse, as defined in s. 893.02(2), F.S., and whether there is a currently accepted medical use. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances.³

- A **Schedule I** substance has a high potential for abuse, currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples: heroin and methaqualone.
- A **Schedule II** substance has a high potential for abuse but also has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of a Schedule II substance may lead to severe psychological or physical dependence. Examples: cocaine and morphine.
- A **Schedule III** substance has less potential for abuse than a Schedule I or II substance and a currently accepted medical use in treatment in the United States. However, abuse of a Schedule III substance may lead to varying degrees of psychological dependence or, in the case of anabolic steroids, to physical damage. Examples: lysergic acid; ketamine; and some anabolic steroids.
- A **Schedule IV** substance has a low potential for abuse relative to the substances in Schedule III and a currently accepted medical use in treatment in the United States. Abuse of a Schedule IV substance may lead to limited physical or psychological dependence. Examples: alprazolam; diazepam; and phenobarbital.

¹ Florida Department of Law Enforcement, *Drugs Identified in Deceased Persons by Medical Examiners*, 2010.

² Florida Department of Environmental Protection, *Draft Bill Analysis on SB 626*, 1/20/2012, on file with the Senate Health Regulation Committee.

³ See, s. 893.03, F.S.

- A **Schedule V** substance has a low potential for abuse and a currently accepted medical use in treatment in the United States. Abuse of a Schedule V substance may lead to limited physical or psychological dependence. Examples: low dosage levels of codeine; certain stimulants; and certain narcotic compounds.

Section 893.13, F.S., makes it unlawful for any person to sell, manufacture, deliver, or possess with intent to sell, manufacture, or deliver a controlled substance except as authorized by ch. 893 and 499, F.S.; s. 893.135, F.S., relates to trafficking in controlled substances; and s. 893.1351, F.S., provides that a person may not own or lease a place with the knowledge that it will be used for the purpose of trafficking in a controlled substance. A person who violates ch. 893, F.S., may be found guilty of committing a crime ranging anywhere from a Misdemeanor of the First Degree up to and including a Felony of the First Degree.

Environmental Impacts

The environmental impacts of improper disposal of pharmaceuticals are harder to demonstrate empirically. Recently, a national study has found certain pharmaceuticals in Florida's waters at concentrations of parts per million, which is on par with many other water bodies across the nation.⁴ However, due to widespread use of drugs, such as antibiotics, in agriculture and animal husbandry, and the low metabolism rate of some of these substances in the human body, it is difficult to pinpoint exactly how these pharmaceuticals are being introduced into the water.⁵

Collection Programs

Currently, no standardized collection program for household pharmaceuticals exists for the whole state of Florida and many people, instead of disposing of expired or unused household pharmaceuticals properly, simply throw them out or flush them down the toilet. Local jurisdictions occasionally run such collection programs, though. For example, the Broward County Sheriff's Office runs Operation Medicine Cabinet which sets up locations and times, at least once a month, to allow participants to "drop off prescription drugs with no questions asked and receive a \$5 gift card to local stores and pharmacies."⁶ Also, other law enforcement agencies periodically collaborate with retail stores to host community events to collect and safely dispose of expired or unused pharmaceuticals. According to the DEP, at a pharmaceutical collection event in Tallahassee held in October of 2011, citizens were polled on how they typically disposed of expired or unused pharmaceuticals assuming a collection event was not available. Of the citizens polled, 26 percent reported that they threw the pharmaceuticals in the trash, 18 percent reported that they flushed them down the toilet, and 54 percent reported that they simply stored them.⁷

⁴ Id.

⁵ Id.

⁶ Broward Sheriff's Office, *Operation Medicine Cabinet*, found at http://sheriff.org/safety/operation_medicine_cabinet/, last viewed on Feb. 20, 2012.

⁷ Id.

III. Effect of Proposed Changes:

Section 1 creates s. 403.745, F.S., which establishes a grant program to reimburse local law enforcement agencies for the expenses associated with the collection and disposal of household pharmaceuticals. To be eligible for a grant, a law enforcement agency must conduct the collection and disposal of household pharmaceuticals in a manner consistent with the DEP rules and state and federal requirements.

Section 2 creates s. 938.16, F.S., in order to fund the household pharmaceuticals collection and disposal grant program. It provides that, in addition to any sanction imposed for a violation of ss. 893.13, 893.135, or 893.1351, F.S., the court must impose a surcharge of \$21. Payment of the surcharge will be a condition of probation, community control, or any other court-ordered supervision. Twenty dollars of the surcharge shall be remitted to the DOR to be deposited into the Household Pharmaceuticals Collection and Disposal Trust Fund established in s. 403.7451, F.S., and the clerk of the court will retain \$1 of each surcharge that they collect as a service charge.

Section 3 establishes an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Staff estimate that in 2011 approximately 22,116 or more violations occurred related to ss. 893.13, 893.135, or 893.1351, F.S. Based on this estimate, approximately \$464,436 would be generated from the \$21 surcharge, of which, \$442,320 would be deposited into the Household Pharmaceuticals Collection and Disposal Trust Fund, created in SB 624. A impact conference is needed to determine the estimated revenue.

B. Private Sector Impact:

This bill may provide new opportunities for businesses that provide collection and disposal services of prescription drugs.

This bill will impose an additional \$21 surcharge on persons who violate ss. 893.13, 893.135, or 893.1351, F.S.

C. Government Sector Impact:

This bill will create a grant program within the DEP. The DEP has indicated that they can administer this program within existing staff and resources but would require budget authority to distribute the revenues generated by the surcharge. Additional budget authority may be provided pursuant to the provisions in chapter 216, F.S. or through the agency Legislative Budget Request.

If local law enforcement agencies choose to hold collection events, their costs would be reimbursed through the grant program. It is anticipated that there would be no additional costs to local governments other than the costs associated with managing the grant receipts and processing requests for reimbursement under the grants. However, according to the Florida Association of County Clerks this bill is expected to have an indeterminate fiscal impact on the various offices of the clerks of county courts that process the new surcharge⁸ due to the costs of processing and the \$1 surcharge which may offset such costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 631912 by Environmental Preservation and Conservation on February 6, 2012:**

The amendment clarifies that \$20 of the surcharge shall be remitted to the Department of

⁸ Association of County Clerks, *RE: SENATE BILL # 626 Collection and Disposal of Household Pharmaceuticals*, Nov. 8, 2011, on file with the Senate Health Regulation Committee.

Revenue for deposit into the Household Pharmaceuticals Collection and Disposal Trust
Fund. (WITH TITLE AMENDMENT)

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
