S T A T E O F N E W Y O R K

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I N A S S E M B L Y

June 7, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Sweeney, Arroyo, Crespo, DelMonte, DenDekker, Jaffee, Koon, Lifton, Lupardo, Maisel, Mayersohn, Millman, Peoples-Stokes, Robinson, Schimel, Skartados, Weisenberg, Gibson, Glick, Jacobs, McEneny, Russell, Thiele, Titone, Towns) -- (at request of the Department of Environmental Conservation) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting certain means of disposal of pharmaceutical waste

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 27 of article 27 and sections 27-2701 and 27-2703 of the environmental conservation law, as added by chapter 625 of the laws of 2008, are renumbered title 29 and sections 27-2901 and 27-2903.

S 2. Section 27-2901 of the environmental conservation law, as added by chapter 625 of the laws of 2008 and as renumbered by section one of this act, is amended to read as follows:

S 27-2901. [Definition] DEFINITIONS.

1. As used in this title, "drug" means any drug, as defined in [subdivision seven of] section sixty-eight hundred two of the education law.

2. "INSTITUTIONAL DISPENSER" SHALL HAVE THE SAME MEANING AS THAT TERM IS DEFINED IN SECTION THIRTY-THREE HUNDRED TWO OF THE PUBLIC HEALTH LAW.

3. "LANDFILL" SHALL HAVE THE SAME MEANING AS THAT TERM IS DEFINED IN SECTION 27-0901 OF THIS ARTICLE.

4. "PHARMACEUTICAL MANUFACTURER" MEANS ANY PERSON WHO:

(A) HAS LEGAL OWNERSHIP OF THE BRAND, BRAND NAME, OR CO-BRAND OF A PRESCRIPTION DRUG OR MANUFACTURES A GENERIC PRESCRIPTION DRUG SOLD IN OR INTO THE STATE. "PHARMACEUTICAL MANUFACTURER" DOES NOT INCLUDE A RETAILER WHO PUTS ITS STORE LABEL ON A COVERED PRODUCT OR A PHARMACIST WHO COMPOUNDS A PRESCRIBED INDIVIDUAL DRUG PRODUCT FOR A PATIENT;

(B) IMPORTS FOR SALE IN THE STATE A PRESCRIPTION DRUG BRANDED OR MANUFACTURED BY A PHARMACEUTICAL MANUFACTURER AS DEFINED BY PARAGRAPH (A) OF THIS SUBDIVISION WHERE THAT PHARMACEUTICAL MANUFACTURER HAS NO PHYSICAL PRESENCE IN THE UNITED STATES; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(C) SELLS AT WHOLESALE A PRESCRIPTION DRUG AND ELECTS TO FULFILL THE RESPONSIBILITIES OF THE PHARMACEUTICAL MANUFACTURER AS DEFINED BY PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION FOR THAT DRUG.

5. "PRESCRIPTION PHARMACEUTICAL WASTE" MEANS A DISCARDED, UNWANTED, OR EXPIRED PRESCRIPTION DRUG WHICH IS NOT CLASSIFIED AS A REGULATED MEDICAL WASTE PURSUANT TO TITLE FIFTEEN OF THIS ARTICLE. PRESCRIPTION DRUG MEANS THE SAME AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED SEVENTY OF THE PUBLIC HEALTH LAW.

S 3. The environmental conservation law is amended by adding a new section 27-2905 to read as follows:

S 27-2905. PROHIBITION ON CERTAIN PRESCRIPTION PHARMACEUTICAL WASTE DISPOSAL.

1. NO INSTITUTIONAL DISPENSER SHALL DISPOSE OF PRESCRIPTION PHARMACEUTICAL WASTE IN A MANNER THAT RESULTS IN PLACEMENT IN A LANDFILL OR BY A MEANS THAT RESULTS, DIRECTLY OR INDIRECTLY, IN A DISCHARGE INTO ANY WATERS OF THE STATE.

2. AN OWNER OR OPERATOR OF A LANDFILL SHALL NOT KNOWINGLY ACCEPT PRESCRIPTION PHARMACEUTICAL WASTE FROM ANY INSTITUTIONAL DISPENSER FOR DISPOSAL. AN OWNER OR OPERATOR OF A LANDFILL SHALL NOT BE FOUND TO HAVE ACCEPTED PRESCRIPTION PHARMACEUTICAL WASTE FOR DISPOSAL IN VIOLATION OF THIS SUBDIVISION IF THE OWNER OR OPERATOR HAS (A) MADE A GOOD FAITH EFFORT TO COMPLY WITH THIS SECTION, (B) PROVIDED WRITTEN INFORMATION TO USERS OF ITS FACILITY THAT IT IS UNLAWFUL FOR INSTITUTIONAL DISPENSERS TO DISPOSE OF PRESCRIPTION PHARMACEUTICAL WASTE AT A LANDFILL AND (C) POSTED SIGNS, IN CONSPICUOUS LOCATIONS AT THE LANDFILL, STATING THAT PRESCRIPTION PHARMACEUTICAL WASTE FROM INSTITUTIONAL DISPENSERS MAY NOT BE DISPOSED AT THE LANDFILL.

S 4. The environmental conservation law is amended by adding a new section 27-2907 to read as follows:

S 27-2907. PHARMACEUTICAL WASTE STEWARDSHIP.

1. EVERY PHARMACEUTICAL MANUFACTURER SELLING PRESCRIPTION DRUGS IN THIS STATE SHALL PROVIDE FOR THE FREE COLLECTION OF PRESCRIPTION PHARMACEUTICAL WASTE FROM INSTITUTIONAL DISPENSERS UNLESS THE COLLECTION IS OTHERWISE PROHIBITED BY LAW. COLLECTION SHALL BE BY DIRECT PICK-UP, MAIL OR ANOTHER METHOD APPROVED BY THE DEPARTMENT, AND SHALL BE PROVIDED AT LEAST EVERY NINETY DAYS. IN ADDITION, IN THE CASE OF PRESCRIPTION PHARMACEUTICAL WASTE THAT IS HAZARDOUS WASTE, COLLECTION SHALL ALSO OCCUR WHEN ONE HUNDRED POUNDS OF HAZARDOUS WASTE OR ONE POUND OF ACUTE HAZARDOUS WASTE, AS THOSE TERMS ARE DEFINED IN REGULATIONS PROMULGATED PURSUANT TO TITLE NINE OF THIS ARTICLE, ARE ACCUMULATED AT THE INSTITUTIONAL DISPENSER.

2. PRESCRIPTION PHARMACEUTICAL WASTE COLLECTED FROM INSTITUTIONAL DISPENSERS AND DISPOSED OF IN THE STATE SHALL BE DISPOSED OF AT A COMBUSTION FACILITY PERMITTED PURSUANT TO THIS ARTICLE AND ARTICLE NINETEEN OF THIS CHAPTER OR BY OTHER DISPOSAL TECHNOLOGY APPROVED BY THE DEPARTMENT WHICH PREVENTS THE DISCHARGE OF THE WASTE TO THE WATERS OF THE STATE; PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO EXEMPT ANY PHARMACEUTICAL WASTE FROM ANY APPLICABLE PROVISION OF STATE OR FEDERAL LAW.

3. BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, EVERY PHARMACEUTICAL MANUFACTURER SHALL PROVIDE AN ANNUAL REPORT TO THE DEPARTMENT FOR THE PREVIOUS CALENDAR YEAR. THE ANNUAL REPORT SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND INCLUDE:

(A) THE MANUFACTURER'S NAME, ADDRESS AND TELEPHONE NUMBER;

(B) THE NAME AND TITLE OF AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL DESIGNATED AS THE MANUFACTURER'S CONTACT FOR PURPOSES OF THIS SECTION;

(C) A GENERAL DESCRIPTION OF THE MANNER IN WHICH THE MANUFACTURER PROVIDED FOR THE COLLECTION AND PROPER MANAGEMENT OF PHARMACEUTICAL WASTE, INCLUDING THE IDENTITY OF THE FACILITIES USED FOR DISPOSAL;

(D) THE TOTAL AMOUNT, BY WEIGHT, OF PHARMACEUTICAL WASTE COLLECTED, DISPOSED OF, AND OTHERWISE PROPERLY MANAGED;

(E) THE INSTITUTIONAL DISPENSERS SERVED BY THE MANUFACTURER'S PROGRAM; AND

(F) ANY OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE TO ASSURE THAT PHARMACEUTICAL WASTE FROM INSTITUTIONAL DISPENSERS IS BEING MANAGED IN ACCORDANCE WITH APPLICABLE REGULATIONS.

4. A PHARMACEUTICAL MANUFACTURER MAY SATISFY ITS COLLECTION AND REPORTING REQUIREMENTS OF THIS SECTION BY PARTICIPATING IN A COLLECTIVE PRESCRIPTION PHARMACEUTICAL WASTE STEWARDSHIP PROGRAM WITH OTHER MANUFACTURERS. ANY COLLECTIVE PRESCRIPTION PHARMACEUTICAL WASTE STEWARDSHIP PROGRAM SHALL FILE AN ANNUAL REPORT AND PROVIDE A LIST OF MANUFACTURERS THAT ARE PARTICIPATING IN THE PROGRAM ALONG WITH OTHER IDENTIFYING AND COMPLIANCE INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT.

5. PHARMACEUTICAL MANUFACTURERS SHALL PROVIDE EDUCATIONAL MATERIALS TO INSTITUTIONAL DISPENSERS ON HOW TO PROPERLY MANAGE PRESCRIPTION PHARMACEUTICAL WASTE, INCLUDING INFORMATION ON THE PROHIBITION AGAINST DISPOSING OF PRESCRIPTION PHARMACEUTICAL WASTE IN A LANDFILL, THE PROHIBITION ON FLUSHING OF PHARMACEUTICAL WASTE, AND ESTABLISH A PHONE NUMBER AND WEBSITE WHERE THIS INFORMATION IS AVAILABLE.

S 5. Subdivision 4 of section 27-0303 of the environmental conservation law, as amended by chapter 226 of the laws of 1990, is amended to read as follows:

4. "Regulated waste" means any one of the following types of waste: raw sewage, septage, sludge from a sewage or water supply treatment plant, industrial-commercial waste, low-level radioactive waste as defined in subdivision nine of this section, waste tires, [or] waste oil OR PRESCRIPTION PHARMACEUTICAL WASTE AS DEFINED IN TITLE TWENTY-NINE OF THIS ARTICLE.

S 6. Section 17-0105 of the environmental conservation law is amended by adding a new subdivision 24 to read as follows:

24. "PHARMACEUTICAL WASTE" MEANS A DISCARDED, UNWANTED, OR EXPIRED DRUG. DRUG MEANS THE SAME AS SUCH TERM IS DEFINED IN SECTION SIXTY-EIGHT HUNDRED TWO OF THE EDUCATION LAW.

S 7. The environmental conservation law is amended by adding a new section 17-0513 to read as follows:

S 17-0513. RESTRICTIONS ON DISCHARGE OF PHARMACEUTICAL WASTE.

IN ADDITION TO THE DISPOSAL PROHIBITIONS SPECIFIED IN SECTION 27-2905 OF THIS CHAPTER, NO INSTITUTIONAL DISPENSER, AS THAT TERM IS DEFINED IN SECTION THIRTY-THREE HUNDRED TWO OF THE PUBLIC HEALTH LAW, SHALL, DIRECTLY OR INDIRECTLY, THROW, DRAIN, RUN OR OTHERWISE DISCHARGE ANY PHARMACEUTICAL WASTE IN A MANNER THAT RESULTS IN A DISCHARGE TO THE WATERS OF THE STATE, INCLUDING BY FLUSHING, POURING, EMPTYING OR DISPOSING INTO A DRAIN OR SEWER SYSTEM.

S 8. This act shall take effect July 1, 2011.