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An Act To Support Collection and Proper Disposal of Unwanted Drugs-LD 8 (previously LD 1460)

Testimony of Geoff Gratwick before the ENR Committee

Good morning, Senator Carney, Representative Tucker and members of the ENR Committee. I would like in particular to thank Senator Carney for bringing this bill forward which I and many others worked on for 18 months in the 129th Legislature. After many hearings it passed unanimously 3/12/20 but then died when the Legislature adjourned 3/17/21 due to COVID.

Background:

1. Health and Safety: Left over medicines are dangerous
  - a. children, pets and others; unintended drug overdoses cause more deaths than cocaine and heroin combined (2013 CDC data); overdoses of opioids (Opioid Task Force, Maine 2018); abuse
  - b. 70% of those who abuse prescription medicines start with those they find in medicine cabinets (PSI)
2. Environmental hazards; contaminated water: flushing Rx down the toilet has put antibiotics, psychoactive Rx, sex hormones, etc. into our waters
3. LD 1460 has been vetted by legal analysts, DEP, DEA, Product Stewardship Institute, law enforcement, and pharmacists

Precedents:

1. Maine has product stewardship laws in Chapter 38 for batteries, mercury thermostats, tires, electronics, packaging, paint, refrigerants, fluorescent lamps, textiles, mattresses, and medical sharps.
2. Five states already have similar laws to LD 8 (Washington, NY, Ca, Mass, Vt). LD8 bill builds on their experience, both positive and negative

Legal Background:

- 1.) In September 2014, the DEA authorized retail pharmacies, law enforcement, manufacturers, drug distributors, reverse distributors, narcotic treatment programs, hospitals, and clinics with an on-site pharmacy to voluntarily collect controlled substances.
- 2.) In 2015 the U.S. Supreme Court let stand a Ninth Circuit court ruling that allows medicine take-back programs in a suit evoking the Commerce Clause. (Alameda County, California)
- 3.) Washington State's and California's law are more detailed and prescriptive than LD 8; the decision was made to not make this law too detailed.

Issues Previously discussed with LD 1460

- 1.) Disposal –
  - a. Kiosks - Most cost effective; placement may be difficult in small pharmacies; collection wholly organized and paid for by mfrs; high temperature burn/destruction
  - b. Mail back envelopes OK if approved by DEA and Maine DEP
  - c. 'Product Destroyers' – these render medicines unusable but do not break down molecules. If they do go to a landfill they leach into ground water.
- 2.) The Convenience Standard - Where to locate kiosks?
  - a. Disposal must be routine and easily accessible to the public
  - b. Law enforcement sites are good but restricted in number; hours are often limited; most people find pharmacies more accessible and consumer friendly than police stations.
  - c. Should there be take back sites in all pharmacies or should they be apportioned according to population? This was a very long discussion. The former was greatly preferred due to simplicity of administration; equality; all pharmacies would be able to benefit from more foot traffic.

Extended Producer Responsibility Laws (EPR) – Objections and Responses

- 1.) These laws will drive up costs for consumers:
  - i. Programs in Europe and Canada have not resulted in increases in drug costs; their drug costs are significantly less than in the U.S.
  - ii. Estimated cost is \$0.01 per \$10 of revenue earned (Oregon data).
  - iii. Most large pharmaceutical companies spend more on advertising than on research. The Sackler brothers/Purdue Pharma provide a cautionary tale.
- 2.) Leave Rx collection to current programs organized by the DEA, local police, and sheriff's departments
  - i. The focus of these departments is law enforcement, not medication collection.
  - ii. All these departments are funded by tax dollars that could be better spent elsewhere.
- 3.) They are unnecessary and underused
  - i. White House, FDA, EPA, DEA and various state agencies all encourage these programs.
- 4.) They are too prescriptive
  - i. Manufacturers can decide to have their own program or work collectively. Product stewardship laws have a record of success.
- 5.) Increase the risk of theft:

- i. EPR laws have stood the test of time and are backed by federal and state law enforcement agencies.
  - ii. Narcotics are stored behind pharmacy counter with minimal problem
- 6.) Many (but not all) pharmacies have demonstrated leadership in sponsoring take-back programs.