

**SFGATE** <http://www.sfgate.com/bayarea/article/Alameda-County-s-pioneering-drug-disposal-law-5791624.php>

# Alameda County's pioneering drug disposal law upheld in federal court

By Bob Egelko Published 1:31 pm, Tuesday, September 30, 2014

A federal appeals court rejected a challenge Tuesday by the pharmaceutical industry to an Alameda County ordinance, the first in the nation to require drug manufacturers to pay disposal costs for consumers' unused medications.

Drug companies, backed by trade associations and the **U.S. Chamber of Commerce**, argued that the 2012 ordinance illegally shifts local costs to out-of-state producers and interferes with interstate commerce. But the Ninth **U.S. Circuit Court of Appeals** in San Francisco said the county's measure treats all manufacturers equally and imposes no substantial burden on interstate businesses.

The ordinance "applies to all manufacturers that make their drugs available in Alameda County — without respect to the geographic location of the manufacturer," Judge **N. Randy Smith** said in the 3-0 ruling, which upheld a federal judge's decision in the county's favor. "Given that the ordinance applies across the board, it does not discriminate at all," nor does it regulate conduct outside the county, he said.

Smith also noted that pharmaceutical companies collect \$950 million a year in sales revenue in Alameda County and could comply with the ordinance at an annual cost of \$1.2 million, by the companies' estimate, or \$330,000 by the county's estimate. The companies could recoup their costs by raising prices in Alameda County by one cent for each \$10 in sales, said **Arthur Shartsis**, a lawyer for the county.

The court's affirmance of local regulation was crucial, Shartsis said, because "the pharmaceutical industry has the lobbying power to stop these kinds of programs at the state level. It does not have the power to stop them at the county level."

**Pharmaceutical Research and Manufacturers of America**, which sued to overturn the ordinance, was not immediately available for comment. The organization could ask the U.S. Supreme Court to review the ruling.

The ordinance was approved by county supervisors in July 2012 and is still in the process of

being implemented. It requires makers of prescription drugs sold in the county to fund a program that picks up and disposes of leftover drugs.

Alameda County now operates and pays for about 30 drop-off sites where consumers can discard their pills. County officials who backed the ordinance said drug companies should bear the cost of cleaning up their products for the sake of the environment and their customers' health. The **Natural Resources Defense Council**, city and county governments and Attorney General **Kamala Harris** filed arguments asking the court to uphold the ordinance.

*Bob Egelko is a **San Francisco Chronicle** staff writer. E-mail: [beigelko@sfchronicle.com](mailto:beigelko@sfchronicle.com).  
Twitter: @egelko*

For the ruling: <http://cdn.ca9.uscourts.gov/datastore/opinions/2014/09/30/13-16833.pdf>

© 2014 Hearst Communications, Inc.

**H E A R S T** *newspapers*