

Challenged in Court, Killed in Legislature, Drug Take-Back Taking Root in Counties

by George Lauer, California Healthline Features Editor

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The notion that pharmaceutical manufacturers should be responsible for the entire life span of their products -- from creation to disposal -- is being challenged in courts and turned back in state legislatures, but it appears to be growing in county governments in California.

San Francisco supervisors this month unanimously approved an ordinance that requires drugmakers to create, administer and pay for a program to collect and properly dispose of prescription drugs in the city and county of San Francisco.

Two other Bay Area counties -- San Mateo and Marin -- are considering similar ordinances and drug take-back advocates say the idea is percolating in many other California counties and elsewhere in the country, as well.

"There's a huge amount of interest in this idea for several reasons -- environmental, drug abuse prevention and just simply saving a lot of money," said Heidi Sanborn, executive director of the California Product Stewardship Council.

"In a lot of California counties, the sheriff's department or some other part of local government is responsible for making sure old unused drugs are dealt with responsibly. It takes time and money to oversee this kind of thing and local governments see the logic in getting these companies that are making billions of dollars off these products to pay for disposing of them," Sanborn said.

Not surprisingly, pharmaceutical manufacturers don't like the idea and are challenging it in court.

Three years ago, Alameda County passed the first take-back ordinance calling for drugmakers to pay for the program. The Pharmaceutical Research and Manufacturers of America -- the trade group representing drugmakers -- claimed it was unconstitutional and sued. Last year, the 9th Circuit Court of Appeals upheld Alameda's ordinance. In December PhRMA asked the U.S. Supreme Court to hear the case.

Supreme Court justices, who this month asked Alameda for more information, are expected in mid-April to do take action -- either accept or reject the case or ask for more information.

Sanborn said PhRMA documents filed with the Supreme Court in the Alameda case contained a couple of errors.

"First they mentioned the city of Turlock was going to introduce an ordinance," Sanborn said. "I called Turlock and they said nobody there knew anything about it."

The PhRMA documents also "said something about the next thing environmentalists were going to go after was paint," Sanborn said. "We've had a law on the books in California since 2010 about the disposal of paint," she added.

PhRMA officials did not respond to repeated requests for comment for this story.

Marin Moving Forward

Marin County supervisors last week asked county counsel to draft a take-back ordinance along the same lines as those passed in Alameda and San Francisco.

The call was supported by "a parade of organizations, residents and doctors," according to a [story in the *Marin Independent-Journal*](#).

Supporters in Marin include the Marin County Pharmacists Association, Alcohol Justice, Mill Valley police, Families for Safer Schools, the California Alliance of Retired Americans and the Fairfax Town Council.

State Legislation Possible Next Year

Last year, state Sen. Hannah-Beth Jackson (D-Santa Barbara) introduced a bill ([SB 1014](#)) in the California Legislature to require drug manufacturers to create, finance and manage a statewide system for collecting and disposing of unwanted drugs. SB 1014, opposed by PhRMA, did not get much traction and died in committee. Jackson did not reintroduce the bill this session, but the idea of a statewide take-back program is not dead, advocates say.

"You never know, it could even happen this year if someone decides to tack it onto one of the other spot bills dealing with pharmaceuticals," Sanborn said. "I think it will come back one way or another, sooner or later, but not I'm not going to predict how or when," she added.

Jackson isn't the only legislator in Sacramento with a history of supporting drug take-back programs. New Assembly member David Chiu (D-San Francisco) championed San Francisco's drug take-back ordinance while he was a member of the board of supervisors.

While in San Francisco, Chiu also supported a proposition to improve the city's ability to negotiate drug prices. Proposition D, overwhelmingly approved by voters in 2013, was a non-binding call for the city to negotiate directly with drugmakers and urged state and federal government representatives to sponsor laws that would reduce drug costs to all levels of government with the goal of a 33% reduction.

Last month, Chiu introduced a bill ([AB 463](#)) in the state Legislature that would require pharmaceutical manufacturers to explain how they decide on prices for particularly expensive drugs.

Thought to be the first bill of its kind in the country, AB 463 would require drugmakers to report profits and production expenses for any drug or course of treatment costing \$10,000 or more.

Chiu said he was open to the idea of working on a statewide take-back bill and might pursue the idea with Jackson and other legislators.

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