

Introduced by Senators Simitian and KuehlFebruary 23, 2007

An act to add Chapter 6.9.2 (commencing with Section 25400.50) to Division 20 of the Health and Safety Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as introduced, Simitian. Pharmaceutical drug disposal.

(1) Existing law requires the Department of Toxic Substances Control to take renewal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would require every retailer of pharmaceutical drugs, as defined, on and after July 1, 2008, to have in place a system for the acceptance and collection of pharmaceutical drugs for proper disposal that includes specified elements. The bill would provide that any person who violates those provisions shall, if convicted, be guilty of a misdemeanor, and subject to specified civil and criminal penalties. Because the bill would create a new crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.9.2 (commencing with Section
2 25400.50) is added to Chapter 4 of Division 20 of the Health and
3 Safety Code, to read:

4
5 CHAPTER 6.9.2. PHARMACEUTICAL DRUG DISPOSAL
6

7 25400.50. The Legislature finds and declares all of the
8 following:

9 (a) The United States Geological Survey conducted a study in
10 2002 sampling 139 streams across 30 states and found that 80
11 percent had measurable concentrations of prescription and
12 nonprescription drugs, steroids, and reproductive hormones.

13 (b) Exposure, even to low levels of pharmaceuticals, has been
14 shown to have negative effects on fish and other aquatic species
15 and may have negative effects on human health.

16 (c) In order to reduce the likelihood of improper disposal of
17 pharmaceuticals, it is the purpose of this article to establish a
18 program through which the public may return and ensure the safe
19 and environmentally sound disposal of pharmaceutical drugs and
20 may do so in a way that is convenient for consumers and cost
21 effective for retailers.

22 25400.51. For the purposes of this article, the following terms
23 have the following meanings, unless the context clearly requires
24 otherwise:

25 (a) “Consumer” means an individual purchaser or owner of a
26 pharmaceutical drug. “Consumer” does not include a business,
27 corporation, limited partnership, or an entity involved in a
28 wholesale transaction between a distributor and retailer.

29 (b) “Pharmaceutical drug” means a prescription or
30 over-the-counter drug, including, but not limited to, a drug as
31 defined in Section 109925 or the Federal Food, Drug, and Cosmetic
32 Act, as amended (21 U.S.C. Sec. 321(g)(1)).

33 (c) “Retailer” means a person or entity who makes a retail sale
34 of a pharmaceutical drug to a consumer in this state.

1 (d) “Sale” includes, but is not limited to, transactions conducted
2 through sales outlets, catalogs, or the Internet, or any other similar
3 electronic means, but does not include a sale that is a wholesale
4 transaction with a distributor or retailer.

5 25400.52. (a) On and after July 1, 2008, every retailer shall
6 have in place a system for the acceptance and collection of
7 pharmaceutical drugs for proper disposal.

8 (b) A system for the acceptance and collection of pharmaceutical
9 drugs for proper disposal shall, at a minimum, include all of the
10 following elements:

11 (1) The take-back, at no cost to the consumer, of a
12 pharmaceutical drug, the type or brand of which the retailer sold
13 or previously sold.

14 (2) A notice to consumers that shall include informational
15 materials, including, but not limited to, Internet Web site links or
16 a telephone number, placed on the invoice or purchase order, or
17 packaged with the pharmaceutical drug, that provide consumers
18 access to obtain more information about the opportunities and
19 locations for no-cost pharmaceutical drug recycling.

20 (3) Information made available to consumers about
21 pharmaceutical drug return opportunities provided by the retailer
22 and encouraging consumers to utilize those opportunities. This
23 information may include, but is not limited to, one or more of the
24 following:

25 (A) Signage that is prominently displayed and easily visible to
26 the consumer.

27 (B) Written materials provided to the consumer at the time of
28 purchase or delivery, or both.

29 (C) Reference to the pharmaceutical drug take-back opportunity
30 in retailer advertising or other promotional materials, or both.

31 (D) Direct communications with the consumer at the time of
32 purchase.

33 (c) If a retailer is participating in an existing pharmaceutical
34 drug take-back system and the system otherwise complies with
35 the requirements of this article.

36 25400.53. On and after July 1, 2008, it is unlawful for a retailer
37 to sell a pharmaceutical drug to a consumer unless the retailer
38 complies with this article, and any violation of this section shall
39 be a misdemeanor.

1 25400.54. Notwithstanding any other provision of law, any
2 person who violates this chapter shall, if convicted, be subject to
3 imprisonment for not more than one year in the county jail or a
4 fine of not more than one thousand dollars (\$1,000), or both the
5 imprisonment and fine.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.