

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 966**

---

---

**Introduced by Senators Simitian and Kuehl**

February 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 amended, 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~~ *a drug*, 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 its provisions shall not apply to a controlled substance, as defined. 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~~ *The bill would provide that its provisions shall not apply to a controlled substance, as defined.*

~~(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~~ *no*. State-mandated local program: ~~yes~~ *no*.

*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~~ *drugs*, has  
14 been shown to have negative effects on fish and other aquatic  
15 species and may have negative effects on human health.

16 (c) In order to reduce the likelihood of improper disposal of  
17 ~~pharmaceuticals~~ *drugs*, it is the purpose of this article to establish  
18 a program through which the public may return and ensure the  
19 safe and environmentally sound disposal of ~~pharmaceutical~~ drugs  
20 and 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~~

1 defined in Section 109925 or the Federal Food, Drug, and Cosmetic  
2 Act, as amended (21 U.S.C. Sec. 321(g)(1)).

3 (b) “Drug” means any of the following:

4 (1) Articles recognized in the official United States  
5 Pharmacopoeia, the official National Formulary, the official  
6 Homeopathic Pharmacopoeia of the United States, or any  
7 supplement of the formulary or those pharmacopoeia.

8 (2) Articles intended for use in the diagnosis, cure, mitigation,  
9 treatment, or prevention of disease in humans or other animals.

10 (3) Articles, excluding food, intended to affect the structure or  
11 any function of the body of humans or other animals.

12 (4) Articles intended for use as a component of any article  
13 specified in paragraph (1), (2), or (3).

14 (c) “Retailer” means a person or entity who makes a retail sale  
15 of a pharmaceutical drug to a consumer in this state. “Retailer”  
16 does not include a veterinarian that disposes of drugs that he or  
17 she did not personally manufacture or sell.

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

22 25400.52. (a) On and after July 1, 2008, every retailer shall  
23 have in place a system for the acceptance and collection of  
24 pharmaceutical drugs for proper disposal.

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

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

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

37 (3) Information made available to consumers about  
38 pharmaceutical drug return opportunities provided by the retailer  
39 and encouraging consumers to utilize those opportunities. This

1 information may include, but is not limited to, one or more of the  
2 following:

3 (A) Signage that is prominently displayed and easily visible to  
4 the consumer.

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

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

9 (D) Direct communications with the consumer at the time of  
10 purchase.

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

14 ~~25400.53. On and after July 1, 2008, it is unlawful for a retailer  
15 to sell a pharmaceutical drug to a consumer unless the retailer  
16 complies with this article, and any violation of this section shall  
17 be a misdemeanor.~~

18 ~~25400.54. Notwithstanding any other provision of law, any  
19 person who violates this chapter shall, if convicted, be subject to  
20 imprisonment for not more than one year in the county jail or a  
21 fine of not more than one thousand dollars (\$1,000), or both the  
22 imprisonment and fine.~~

23 ~~SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.~~

32 *25400.53. This chapter shall not apply to a controlled*  
33 *substance, as defined in Section 11007.*