

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 966**

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**Introduced by Senators Simitian and Kuehl**

February 23, 2007

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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.

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 a drug, as defined, on and after July 1, 2008, to have in place a system for the acceptance and collection of drugs for proper disposal that includes specified elements. The bill would provide that its provisions shall not apply to a controlled substance, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: 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 Division 20 of the Health and Safety Code,  
3 to read:

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CHAPTER 6.9.2. DRUG DISPOSAL

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

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

21 25400.51. For the purposes of this ~~article~~ *chapter*, the following  
22 terms have the following meanings, unless the context clearly  
23 requires otherwise:

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

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

29 (1) Articles recognized in the official United States  
30 Pharmacopoeia, the official National Formulary, the official  
31 Homeopathic Pharmacopoeia of the United States, or any  
32 supplement of the formulary or those pharmacopoeia.

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

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

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

1 (e) ~~“Retailer” means a person or entity who makes a retail sale~~  
2 ~~of a drug to a consumer in this state. “Retailer” does not include~~  
3 ~~a veterinarian that disposes of drugs that he or she did not~~  
4 ~~personally manufacture or sell.~~

5 (c) (1) *“Retailer” means an entity that makes a retail sale of*  
6 *a drug to a consumer in this state and that meets either of the*  
7 *following requirements:*

8 (A) *Meets the definition of a “supermarket,” as defined in*  
9 *Section 14526.5 of the Public Resources Code.*

10 (B) *Has over 10,000 square feet of retail space that generates*  
11 *sales or use tax pursuant to the Bradley-Burns Uniform Local*  
12 *Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)*  
13 *of Division 2 of the Revenue and Taxation Code) and has a*  
14 *pharmacy licensed pursuant to Chapter 9 (commencing with*  
15 *Section 4000) of Division 2 of the Business and Professions Code.*

16 (2) *“Retailer” does not include a veterinarian who disposes of*  
17 *drugs that he or 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 drugs  
24 for proper disposal.

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

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

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

36 (3) Information made available to consumers about drug return  
37 opportunities provided by the retailer and encouraging consumers  
38 to utilize those opportunities. This information may include, but  
39 is not limited to, one or more of the following:

- 1 (A) Signage that is prominently displayed and easily visible to
- 2 the consumer.
- 3 (B) Written materials provided to the consumer at the time of
- 4 purchase or delivery, or both.
- 5 (C) Reference to the drug take-back opportunity in retailer
- 6 advertising or other promotional materials, or both.
- 7 (D) Direct communications with the consumer at the time of
- 8 purchase.
- 9 (c) If a retailer is participating in an existing pharmaceutical
- 10 drug take-back system and the system otherwise complies with
- 11 the requirements of this ~~article~~ *Chapter, the retailer may continue*
- 12 *to participate in that existing program.*
- 13 25400.53. This chapter shall not apply to a controlled substance,
- 14 as defined in Section 11007.