

AMENDED IN SENATE APRIL 19, 2016  
AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1229**

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**Introduced by Senators Jackson and Stone**

February 18, 2016

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An act to add Section 1714.24 to the Civil Code, relating to pharmaceutical waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1229, as amended, Jackson. Home-generated pharmaceutical waste: secure drug take-back bins.

Under existing law, the Medical Waste Management Act, the State Department of Public Health regulates the management and handling of medical waste, including pharmaceutical waste, as defined. The act generally prohibits a person from transporting, storing, treating, disposing, or causing the treatment of medical waste in a manner not authorized by the act. A violation of that provision is a crime.

Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter, has willfully or by want of ordinary care, brought the injury upon himself or herself.

This bill would provide that a collector, as defined, is not liable for civil damages, or subject to criminal prosecution, for maintaining a secure drug take-back bin on its premises if the collector, in good faith and not for compensation, takes specified steps, including that the collector regularly inspects the area surrounding the secure drug take-back bin for potential tampering or diversion, to ensure the health and safety of consumers and employees and the proper disposal in the

waste stream of home-generated pharmaceutical waste, as defined, contained in the bins.

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. (a) The Legislature finds and declares the  
2 following:

3 (1) On October 12, 2010, the federal Secure and Responsible  
4 Drug Disposal Act of 2010 (Public Law 111-273; hereafter referred  
5 to as the Disposal Act) was enacted. Before the Disposal Act,  
6 individuals who wanted to dispose of unused, unwanted, or expired  
7 pharmaceutical controlled substances had limited disposal options.  
8 The federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.;  
9 hereafter referred to as *the* CSA) only permitted individuals to  
10 destroy those substances themselves (e.g., by flushing or  
11 discarding), surrender them to law enforcement, or seek assistance  
12 from the federal Drug Enforcement Agency Administration (DEA).  
13 These restrictions resulted in the accumulation of pharmaceutical  
14 controlled substances in household medicine cabinets that were  
15 available for abuse, misuse, diversion, and accidental ingestion.  
16 The Disposal Act amended the CSA to authorize specified  
17 individuals, referred to as “ultimate users,” to deliver their  
18 pharmaceutical controlled substances to another person for the  
19 purpose of disposal in accordance with regulations promulgated  
20 by the United States Attorney General.

21 (2) On September 9, 2014, the DEA issued its final rule  
22 governing the secure disposal of controlled substances by  
23 registrants and ultimate users. Those regulations implement the  
24 Disposal Act by expanding the options available to collect  
25 controlled substances from ultimate users for the purpose of  
26 disposal, including take-back events, mail-back programs, and  
27 collection receptacle locations. Those regulations, among other  
28 things, allow authorized manufacturers, distributors, reverse  
29 distributors, narcotic treatment programs, hospitals/clinics with  
30 an on-site pharmacy, and retail pharmacies to voluntarily  
31 administer mail-back programs and maintain collection receptacles.

32 (b) It is the intent of the Legislature, with the enactment of this  
33 act, to do both of the following:

1 (1) ~~To encourage~~ *Encourage* the good faith participation of  
2 ~~federally-authorized~~ *federally authorized* entities to maintain secure  
3 drug take-back bins on their premises for the convenience and  
4 public health and safety of prescription drug consumers and the  
5 proper disposal in the waste stream of the pharmaceutical waste  
6 contained in the bins.

7 (2) ~~To limit~~ *Limit* the civil and criminal liability of participating  
8 entities that meet certain minimum standards and take reasonable  
9 care to ensure the health and safety of consumers and employees  
10 when maintaining secure drug take-back bins on their premises.

11 SEC. 2. Section 1714.24 is added to the Civil Code, to read:

12 1714.24. (a) For purposes of this section, the following  
13 definitions shall apply:

14 (1) “Collector” includes only those entities authorized by and  
15 registered with the federal Drug Enforcement ~~Agency~~  
16 *Administration* to receive a controlled substance for the purpose  
17 of destruction, if the entity is in good standing with any applicable  
18 licensing authority.

19 (2) “Compensation” means reimbursement or funds received  
20 from a customer to compensate for the cost incurred in obtaining,  
21 installing, or maintaining a secure drug take-back bin.  
22 ~~Compensation~~ “*Compensation*” does not include reimbursement  
23 or funds received from any other person or entity, other than a  
24 customer, to compensate for the costs incurred in obtaining,  
25 installing, or maintaining a secure drug take-back bin.

26 (3) “Home-generated pharmaceutical waste” means a  
27 pharmaceutical that is no longer wanted or needed by the consumer  
28 and includes any delivery system, such as pills, liquids, and  
29 inhalers.

30 (4) “Maintains” includes owning, leasing, operating, or  
31 otherwise hosting a secure drug take-back bin on the collector’s  
32 premises.

33 (5) “Pharmaceutical” means a prescription or over-the-counter  
34 human or veterinary drug, including, but not limited to, a drug as  
35 defined in Section 109925 of the Health and Safety Code and  
36 Section 321(g)(1) of Title 21 of the United States Code.  
37 “Pharmaceutical” includes controlled substances included in  
38 Schedule II, III, IV, or V of the Uniform Controlled Substances  
39 Act (Division 10 (commencing with Section 11000) of the Health

1 and Safety Code), but does not include a controlled substance  
2 included in Schedule I.

3 (6) “Secure drug take-back bin” means a collection receptacle  
4 as described in Section 1317.75 of Title 21 of the Code of Federal  
5 Regulations.

6 (b) Any collector that maintains a secure drug take-back bin, in  
7 ~~good faith and not for compensation~~, *bin* shall not be liable in a  
8 civil action, or be subject to criminal prosecution, for maintaining  
9 a secure drug take-back bin on its premises if the ~~collector~~  
10 *collector, in good faith and not for compensation*, takes all of the  
11 following steps to ensure the health and safety of consumers and  
12 employees and the proper disposal in the waste stream of the  
13 home-generated pharmaceutical waste contained in a secure drug  
14 take-back bin:

15 (1) Complies with all applicable state and federal laws and  
16 regulations relating to the collection of home-generated  
17 pharmaceutical waste for disposal in secure drug take-back bins,  
18 including, but not limited to, the federal Secure and Responsible  
19 Drug Disposal Act of 2010 (Public Law 111-273).

20 (2) Notifies local law enforcement and any local environmental  
21 health department as to the existence and location of any secure  
22 drug take-back bin on the collector’s premises and the status of  
23 the collector’s registration as a collector with the federal Drug  
24 Enforcement ~~Agency~~. *Administration*.

25 (3) Ensures that the secure drug take-back bin is placed in a  
26 location that is regularly monitored by employees of the registered  
27 collector.

28 (4) Ensures that conspicuous signage is posted on the secure  
29 drug take-back bin that clearly notifies customers as to what  
30 controlled and ~~non-controlled~~ *noncontrolled* substances are and  
31 are not acceptable for deposit into the bin, as well as the hours  
32 during which collection is allowed.

33 (5) Ensures that public access to the secure drug take-back bin  
34 is limited to hours ~~wherein~~ *in which* employees of the registered  
35 collector are present and able to monitor the operation of the secure  
36 drug take-back bin.

37 (6) Regularly inspects the area surrounding the secure drug  
38 take-back bin for potential tampering or diversion. Record logs of  
39 those inspections shall be maintained and retained for ~~four~~ *two*  
40 years, reflecting the date and time of the inspection, and the initials

1 of the employee inspecting the area. Other records or reports  
2 mandated by federal or state regulations shall also be retained for  
3 a minimum of ~~four~~ *two* years unless regulations mandate a longer  
4 period.

5 (7) Notifies local law enforcement authorities of any suspected  
6 or known tampering, theft, or significant loss of controlled  
7 substances, within one business day of discovery. If the collector  
8 maintains daily business hours, this notification shall be made  
9 within one calendar day.

10 (8) Notify local law enforcement as to any decision to  
11 discontinue its voluntary collection of controlled substances and  
12 provide documentation of its written notification to the federal  
13 Drug Enforcement ~~Agency's~~ *Administration's* Registration Unit  
14 as otherwise required under federal laws and regulations.

15 (c) The protection specified in subdivision (b) shall not apply  
16 in a case of personal injury or wrongful death that results from the  
17 collector's gross negligence or willful or wanton misconduct in  
18 maintaining a secure drug take-back bin.

19 (d) Nothing in this section shall be construed to require entities  
20 that may qualify as a collector to acquire, maintain, or make  
21 available to the public a secure drug take-back bin on its premises.