

LEGISLATIVE DIGEST
(Substituted 2/10/2015)

[Environment Code - Safe Drug Disposal]

Ordinance amending the Environment Code to require any person who produces a drug offered for sale in San Francisco to participate in an approved drug stewardship plan for the collection and disposal of unwanted drugs from residential sources; to provide for implementation, enforcement, fees, and penalties; and making environmental findings.

Existing Law

San Francisco does not currently have any law making drug companies responsible for collecting or disposing of unused medications.

Since 2012, the Department of the Environment has operated a pilot program for the collection of controlled and non-controlled substances. The program consists of 13 retail pharmacies collecting non-controlled substances and all 10 of the City's police stations collecting both controlled and non-controlled substances. 40 percent of the pilot program's cost is covered by industry funding.

On October 9, 2014, the Drug Enforcement Agency promulgated regulations that allow retail pharmacies to maintain secure collection receptacles for controlled substances. Until these regulations, only law enforcement agencies were authorized to receive controlled substances.

Two counties in the United States have drug stewardship laws – Alameda County and King County (which encompasses Seattle) – both of which are similar to the ordinance described below. On September 30, 2014, the Ninth Circuit Court of Appeal rejected a constitutional challenge under the dormant commerce clause to Alameda County's ordinance. *Pharm. Research & Mfrs. of Am. v. Cty. of Alameda*, 13-16833, 2014 WL 4814407 (9th Cir. Sept. 30, 2014).

Amendments to Current Law

The proposal is an ordinance that would amend the Environment Code to require any person who produces a drug offered for sale in San Francisco to participate in an approved drug stewardship program for the collection and disposal of unwanted prescription and non-prescription drugs from residential sources.

Drug Stewardship Plans

Every drug company (or "producer") who sells prescription or non-prescription drugs ("covered drugs") in the City would be required to participate in a drug disposal (or "drug stewardship") plan to collect and dispose of unwanted drugs from residential sources. The producer could operate a stewardship plan individually or jointly with other producers, or contract with a

private “stewardship organization” to operate a plan on behalf of the producer. Cosmetics, vitamins, supplements, herbal remedies, and certain other products would not be covered under this ordinance.

The producer would have to pay all administrative and operating costs of the stewardship plan, including the cost of collecting, transporting, and disposing of unwanted drugs. Neither the producer nor the stewardship program would be allowed to charge a fee for the program when the drugs were sold or collected for disposal.

Drug Stewardship Plans

By one year after the effective date of this ordinance, each producer or group of producers would be required to submit a stewardship plan to the Department of the Environment (“Department”) for approval. The plan would have to include, among other things:

- A description of the methods by which unwanted drugs from residential generators would be collected in the City;
- A description of how the unwanted drugs would be safely and securely tracked and handled from collection through final disposal; and
- A certification that that any patient information on drug packaging will be promptly destroyed.

No stewardship plan would be allowed to begin collecting unwanted drugs until it had received written approval of the plan from the Department.

Disposal Of Unwanted Drugs

Each stewardship plan would be required to comply with all applicable laws and regulations, and to dispose of all unwanted drugs it collected from residential sources at a medical waste facility.

Program Promotion And Outreach

Stewardship plans would have to coordinate with each other and prepare education and outreach materials listing the location and operation of collection locations in the City and distribute the materials to health care facilities, veterinary facilities, pharmacies, and other interested parties. The stewardship plans would also have to coordinate with each other and set up a web site and a toll-free telephone number to provide similar information. The promotion and outreach would have to be conducted in English, Spanish, Chinese, Russian, and Tagalog.

Enforcement

The ordinance would be enforced primarily by the Department of the Environment. Violators would first receive a written warning and 30 days to correct their violations. Violators who did not correct their violations within 30 days could be subject to administrative fines. Violators could also be subject to court-ordered civil fines or criminal misdemeanor penalties. The City Attorney, a Producer, or any non-profit organization with a primary mission of protecting the

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environment in the San Francisco Bay Area would be able to bring a civil action to enforce the ordinance.

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