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San Francisco may be First Major U.S. City With a Drug-Take Back Program

By Ed Silverman

San Francisco has taken a big step toward becoming the first major U.S. city to require drug makers to fund and administer a citywide take-back program in which consumers can bring unused and unexpired medicines to drop-off destinations for disposal.

An [ordinance](#) was [approved](#) unanimously last week by the city's Board of Supervisors and now awaits the signature of Mayor Edwin Lee, who has until Friday to sign the bill or it automatically becomes law.



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As we noted previously, the bill mimics a groundbreaking law passed three years ago by Alameda County, California, to establish a program over the protests of the pharmaceutical industry. Since then, drug makers have been concerned that other local governments will be emboldened to pass similar laws, raising their costs around the country.

The take-back programs are designed to reduce contaminants in drinking water and lower the threat of drug abuse stemming from drugs that linger in household medicine chests. Municipal and county officials have complained, though, that the costs threaten to overwhelm their budgets and so the governments turned to drug makers to provide funding.

The pharmaceutical industry subsequently filed a lawsuit arguing that the Alameda County program interferes with interstate commerce and discriminates against out-of-state companies by unfairly shifting costs to industry. Last September, a federal appeals court [disagreed](#), ruling the ordinance treats all drug makers equally and does not place a substantial burden on interstate business.

Three months ago, [drug makers asked](#) the U.S. Supreme Court to review that decision. The Pharmaceutical Research & Manufacturers of America has argued that take-back programs

shift costs to out-of-state consumers and that there is no evidence the programs will alleviate diversion or environment concerns will be alleviated.

“The drug manufacturing industry supports efforts to help consumers safely dispose of unwanted medicines. However, there is no rationale for mandating new, costly and redundant disposal options when both the FDA and the Drug Enforcement Administration support voluntary in-home disposal in conjunction with voluntary programs, national and local take-back days,” says John Murphy, associate general counsel at PhRMA.

But one consumer advocate disagrees. “This is a major step forward. The passage of this ordinance amplifies the growing tide of legislation being passed around the country in multiple industries, and holds manufacturers responsible for the post-consumer management of their products,” says Scott Cassel, chief executive at the Product Stewardship Institute, a non-profit that supports drug-take programs, in a [statement](#).

“The pharmaceutical industry has a long history of fighting such laws; they could avoid the cost of litigating if they were instead to engage in dialogue with local governments and nonprofits to create programs that make economic – and environmental – sense.”

A spokesman for London Breed, who heads the Board of Supervisors and introduced the bill, writes us that “weWe have not heard any official response from the industry since it passed at the board. The history in Alameda makes us both mindful of the possibility of a lawsuit and confident about our prospects.”

Whether other local governments will pursue similar programs remains to be seen. Two other California counties have taken steps to introduce ordinances and King County in Washington state has adopted a similar ordinance.