

Pharma may win a big victory in New York over a drug take-back program

By [ED SILVERMAN](#) [@Pharmalot](#)
AUGUST 31, 2017

In what could be a big win for the pharmaceutical industry, legislation is close to being signed into law in New York State that would absolve drug makers from paying for so-called drug take-back programs.

[Identical bills](#) recently passed the state Senate and Assembly that would, instead, require chain pharmacies to cover the costs, a move that bucks a growing trend on the West Coast, where drug makers have increasingly been forced by local governments to pay for these programs. Over the past few years, four California cities and 12 counties in California and Washington created programs requiring drug makers to foot the bill. And ordinances are expected in still more California counties, according to Heidi Sanborn of the California Product Stewardship Council. But the trend has also headed eastward as Cook County, Ill., and [Rockland County](#), N.Y., recently passed similar laws.

Local officials are pursuing such ordinances in the face of rising disposal costs, growing concerns about contaminants in water supplies, and a desire to reduce the threat of drug abuse stemming from medicines — especially opioids — lingering in cabinets. And they have been emboldened after the U.S. Supreme Court [let stand](#) the legality of the first such ordinance, which was passed in 2012 in Alameda County, Calif.

This explains why environmental activists are disheartened by the developments in New York.

Besides Rockland County, two other New York counties are considering ordinances that would require drug makers to pay for take-back programs, but all of these efforts would be pre-empted by a state law. And such a law would represent a significant gain for the pharmaceutical industry, since New York would stand in stark contrast to the mostly failed attempts to derail ordinances in California.

“It would be a significant development,” said Scott Cassel, who heads the Product Stewardship Institute, a nonprofit that supports drug take-back programs. “We’re seeing the pharmaceutical industry try different strategies to get out of any responsibility for managing these leftover medications.”

Indeed, industry trade groups unsuccessfully went to court to prevent Alameda County from implementing its ordinance. Last year, however, the trade group scored a victory in Los Angeles County, which [tabled](#) a law that would have required drug makers to finance a take-back program, according to a spokeswoman for the Los Angeles County Board of Supervisors.

A spokeswoman for the Pharmaceutical Research & Manufacturers of America declined to comment. A spokesman for the National Association of Chain Drug Stores wrote to say the trade group is having “ongoing discussions regarding the specifics ... and its potential implementation.”

Meanwhile, the New York lawmakers who championed the bills maintain there is ongoing interest in having drug makers underwrite a take-back program. A [separate bill](#) was recently introduced that requires a study for creating a program that would be financed by the pharmaceutical industry, and it would have to be submitted to state officials by May 2018.

This prompted frustration, however, from Ed Day, the Rockland County executive. "It's a cost shifting exercise," he said. "This is conjecture, but it would seem to me that the impact on the local economy would be greater if the cost were borne by chains than large manufacturers... But there should be common sense — stop now and know what you wish to do before you implement something."

But one of the New York lawmakers argued otherwise.

"I'm trying to be pragmatic. I did not want to get up caught up in court cases that almost for sure we'd get from the pharmaceutical industry," said Kemp Hannon, a Republican who heads the Senate Health Committee. "I wanted to get a system up and running as quickly as possible to get opioids out of circulation if they're no longer being used for medicinal purposes. But this is not the end of the game."

Separately, the New York State Association of Counties supports the legislation.

For what it's worth, Hannon last year [received](#) \$29,750 from drug makers, according to the National Institute on Money in State Politics. He scoffed that this influenced the process. "In the course of this bill pending, I didn't get any comments from pharmaceutical people," he said. Assemblywoman Aileen Gunther, who introduced the companion bill, [received](#) \$2,000 last year, from different drug makers.

<https://www.statnews.com/pharmalot/2017/08/31/take-back-program-new-york/>