

BILL ANALYSIS

S.B. 2173
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

According to the National Center for Drug Abuse Statistics, prescriptions are currently the third-most abused substance after alcohol and tobacco products. While Texas participates in the DEA-sponsored National Drug Take-Back Days, there are few sites consistently available to collect unused prescription drugs, especially in rural areas. Take-back programs serve multiple purposes: they provide a convenient and responsible way to get medications out of homes, ensure that medications are safely disposed of in accordance with DEA rules, and raise awareness about the dangers of diversion, misuse, and accidental overdose associated with leftover or unused prescription medications. S.B. 2173 seeks to make take-back programs more accessible by requiring the Texas State Board of Pharmacy to develop and implement a prescription drug safe disposal pilot program to increase the number of locations in Texas where unused, unwanted, or expired prescription drugs are collected from the public for safe disposal.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Board of Pharmacy in SECTION 1 of this bill.

ANALYSIS

S.B. 2173 amends the Health and Safety Code to require the Texas State Board of Pharmacy (TSBP) by rule to develop and implement as soon as practicable after the bill's effective date a prescription drug safe disposal pilot program to increase the number of locations in Texas where unused, unwanted, or expired prescription drugs are collected from the public for safe disposal. The bill authorizes a pharmacy operating in Texas to apply to the TSBP to participate in the pilot program if the pharmacy is registered as an authorized drug collection site with the DEA, is not the subject of state or federal opioid litigation, and meets the eligibility requirements established by federal regulations and TSBP rules.

S.B. 2173 requires the TSBP to adopt rules prescribing the form and manner for a pharmacy to apply for participation in the pilot program and the evaluation and selection criteria and processes. The bill requires the TSBP to give priority to a pharmacy applicant that does not collect unused ultimate user prescription drugs under federal regulations at the time the applicant submits the application or is located in a rural or underserved area designated by the TSBP. The bill requires a pharmacy that operates multiple locations to submit an application for each location.

S.B. 2173 requires a participating pharmacy that provides a collection receptacle for the safe disposal of prescription drugs to ensure the receptacle:

- meets federal regulation requirements;
- is accessible during the pharmacy's regular hours of operation;
- allows for the anonymous deposit of unused controlled substance prescription drugs listed in Schedules II, III, IV, and V; and
- provides disposal of unused prescription drugs at no cost to the ultimate user.

The bill authorizes controlled substance prescription drugs and noncontrolled substance prescription drugs to be collected together and comingled.

S.B. 2173 authorizes a participating pharmacy that provides a collection receptacle for the safe disposal of prescription drugs, under limited circumstances as the pharmacy determines necessary, to provide at the time the pharmacy dispenses a controlled substance prescription drug to the ultimate user a vendor's mail-back envelope, at no cost to the ultimate user. The mail-back envelope must be pre-addressed and return postage paid and meet federal regulations. The bill limits a participating pharmacy to providing not more than 250 mail-back envelopes during the duration of the pilot program to encourage use of the pharmacy's collection receptacle. A participating pharmacy is responsible for the daily management and recordkeeping of the pharmacy's safe disposal program in accordance with the pharmacy's DEA registration and TSBP rules.

S.B. 2173 requires the TSBP to designate each pharmacy participating in the pilot program as a Texas premier pharmacy provider committed to safe prescription drug disposal. The bill authorizes a participating pharmacy to use such designation for marketing purposes.

S.B. 2173 requires the TSBP to assist each pharmacy participating in the pilot program, including by paying the costs of the following:

- maintaining one collection receptacle at each participating pharmacy location and destroying through incineration of the receptacle's full inner liner the prescription drugs deposited in the receptacle;
- ordering and distributing pre-addressed, return postage paid mail-back envelopes from a third-party mail-back program and destroying through incineration the returned mail-back envelopes containing the collected prescription drugs; and
- other operational needs the TSBP determines appropriate.

The bill requires the TSBP to directly reimburse a participating pharmacy for such costs but prohibits the TSBP from reimbursing a participating pharmacy for the cost of using a third-party incineration facility unless the facility is appropriately registered with the DEA. The bill authorizes the TSBP, subject to money available for the purposes of the bill's provisions, to provide financial incentives to a pharmacy to continue providing prescription drug collection services or expand those services to accommodate controlled substance prescriptions. The TSBP may provide financial incentives to a chain retail pharmacy for not more than 15 locations.

S.B. 2173 requires the TSBP to do the following:

- develop and distribute educational outreach materials for the public about the availability of safe prescription drug disposal in Texas;
- post the materials on the TSBP website; and
- provide the materials to other state agencies for those agencies to conduct the community outreach.

The outreach materials must be in English, Spanish, and for specific areas of Texas as TSBP determines appropriate, another language spoken by a substantial portion of the area's residents.

S.B. 2173 requires the TSBP, not later than December 1 of each even-numbered year, to submit to the governor and the legislature a report that does the following:

- summarizes the results of the pilot program, including:
 - the number and geographic distribution of collection receptacles at participating pharmacies;

- the estimated amount of prescription drugs collected by participating pharmacies under the program, measured by:
 - the number of inner liners fully filled with collected prescription drugs and sent for incineration by the pharmacies;
 - the number of mail-back envelopes distributed by the pharmacies; and
 - the weight, measured in pounds, of inner liners and returned mail-back envelopes filled with collected prescription drugs;
- the amount of money distributed under the program and the identity of each participating pharmacy to which money is distributed; and
- a description of the educational efforts of the TSBP and outcomes; and
- recommends whether the pilot program should continue, be expanded, or terminate or whether the TSBP should permanently implement a prescription drug safe disposal program.

S.B. 2173 authorizes the appropriation of money contained in the opioid abatement account to the TSBP to fund the pilot program. The bill authorizes the TSBP to collect gifts, grants, and donations to fund the program.

S.B. 2173 sets its provisions to expire on the second anniversary of the date that all money appropriated for the pilot program has been expended.

EFFECTIVE DATE

September 1, 2023.