

BILL ANALYSIS

C.S.H.B. 5248
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that improper disposal of unused prescription drugs, particularly controlled substances, poses risks to public health, environmental safety, and community well-being, and that despite efforts to improve access to safe drug disposal, many Texans, especially those in rural and underserved areas, still lack convenient ways to discard unwanted medications. C.S.H.B. 5248 seeks to build on the existing prescription drug safe disposal pilot program by shifting administration from the Texas State Board of Pharmacy to the Department of State Health Services, simplifying eligibility, removing unused components such as mail-back envelopes, and clarifying funding mechanisms.

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 executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 5248 amends the Health and Safety Code to change the entity responsible for developing and implementing by rule a prescription drug safe disposal pilot program from the Texas State Board of Pharmacy (TSBP) to the executive commissioner of the Health and Human Services Commission (HHSC). The bill specifies that the pilot program is administered by the Department of State Health Services (DSHS) and accordingly transfers the TSBP's powers and duties relating to the pilot program to DSHS. The bill changes the purpose of the program from increasing the number of locations in Texas where unused, unwanted, or expired prescription drugs are collected from the public for safe disposal to increasing the number of collection receptacles in Texas where such drugs are collected from the public for safe disposal. The bill defines "collection receptacle" by reference to applicable federal regulations.

C.S.H.B. 5248 revises the eligibility criteria that a pharmacy operating in Texas must satisfy to apply to participate in the pilot program as follows:

- replaces the criterion that the pharmacy is registered as a DEA-authorized drug collection site with the criterion that the pharmacy is eligible to be registered as such a site; and
- removes the criteria that the pharmacy is not the subject of state or federal opioid litigation and meets eligibility requirements established by TSBP rules.

C.S.H.B. 5248 removes the requirement for the TSBP to adopt rules prescribing evaluation and selection criteria and processes for the pilot program. The bill replaces the requirement for a

pharmacy that operates multiple locations to submit an application for each location with an authorization for such a pharmacy to submit one application to apply for the program for all of the locations, provided the application contains information specific to each location, including the physical address, phone number, location name, and pharmacy manager's name. The bill establishes that each location is separately evaluated for prioritization for participation in the pilot program.

C.S.H.B. 5248 includes over-the-counter drugs among the drugs that may be collected together and comingled under the pilot program. The bill removes the specification that a participating pharmacy's daily management and recordkeeping of its prescription drug safe disposal program is in accordance with TSBP rules.

C.S.H.B. 5248 revises provisions requiring assistance to be provided to participating pharmacies, including payment of certain costs, as follows:

- requires payment to such a pharmacy of a one-time fee to offset the initial costs of program participation; and
- removes requirements for payment of the costs of ordering and distributing pre-addressed, return postage paid mail-back envelopes from a third-party mail-back program, destroying through incineration the returned mail-back envelopes containing the collected prescription drugs, and operational needs that are determined appropriate but not expressly stated in statute.

The bill removes the requirement for the TSBP to directly reimburse a participating pharmacy for applicable costs the pharmacy incurs and the prohibition against reimbursement of 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 DSHS to contract with a reverse distributor registered with the DEA to install the collection receptacles at participating pharmacy locations and to treat at an incineration facility registered with the DEA the drugs collected in the receptacles.

C.S.H.B. 5248 revises the requirements relating to the development and distribution of educational outreach materials regarding the pilot program by expressly including the TSBP among the state agencies to which DSHS must provide those materials for those agencies to conduct the outreach and by additionally requiring DSHS to create education materials for voluntary use by a participating pharmacy.

C.S.H.B. 5248 revises the contents of the biennial report on the pilot program submitted to the governor and the legislature as follows:

- removes the following as information used to estimate the amount of prescription drugs collected by participating pharmacies under the program:
 - the number of mail-back envelopes distributed by the pharmacies; and
 - the weight of returned mail-back envelopes filled with collected prescription drugs; and
- replaces the amount of money distributed under the pilot program with the cost of the pilot program as required information.

C.S.H.B. 5248 replaces the authorization for money contained in the opioid abatement account to be appropriated to the TSBP to fund the pilot program with a requirement for such money to be appropriated to DSHS to fund the pilot program.

C.S.H.B. 5248 repeals the following provisions of the Health and Safety Code:

- Section 442A.056, which requires the TSBP to designate each pharmacy participating in the pilot program as a Texas premier pharmacy provider committed to safe prescription drug disposal and authorizes a participating pharmacy to use the designation for marketing purposes; and
- Section 442A.101(c), which authorizes the TSBP, subject to money available for the pilot program, to provide financial incentives to a pharmacy to continue providing

prescription drug collection services or expand those services to accommodate controlled substance prescriptions and establishes that financial incentives may be provided to a chain retail pharmacy for not more than 15 locations.

C.S.H.B. 5248 requires the executive commissioner of HHSC, as soon as practicable after the bill's effective date, to adopt rules to allow DSHS to implement the pilot program.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5248 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced replaced the TSBP with the Texas Commission on Environmental Quality (TCEQ) as the entity required to develop and implement by rule a prescription drug safe disposal pilot program, the substitute replaces the TSBP with HHSC as such entity. Additionally, the introduced transferred the TSBP's powers and duties relating to the pilot program to TCEQ, whereas the substitute transfers them to DSHS and specifies that DSHS administers the pilot program.

Whereas the introduced required the TCEQ to implement the pilot program as soon as practicable after the bill's effective date, the substitute requires the executive commissioner of HHSC to adopt rules to allow DSHS to implement the pilot program as soon as practicable after the bill's effective date.

The substitute repeals a provision establishing that financial incentives under the pilot program may be provided to a chain retail pharmacy for not more than 15 locations, whereas the introduced retained that provision.