
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1612 **Hearing Date:** June 30, 2026
Author: Alanis
Version: May 18, 2026
Urgency: No **Fiscal:** Yes
Consultant: ML

Subject: *Disposition of controlled substances*

HISTORY

Source: Author

Prior Legislation: AB 1857 (Garcia), Ch. 342, Stats of 2022
AB 649 (Patterson), held in Senate Appropriations, 2015

Support: Rural County Representatives of California

Opposition: None known

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to require the Department of Justice, upon appropriation, in consultation with the Department of Toxic Substances Control (DTSC) and other relevant agencies, to develop and publish guidance on its website for the proper management and disposal of controlled substances in the possession of a local police department, sheriff's office, or state law enforcement agency.

Existing law establishes the federal Resource Conservation and Recovery Act (RCRA) to authorize the United States Environmental Protection Agency (US EPA) to manage hazardous and non-hazardous wastes throughout the wastes' life cycle. (42 U.S.C. § 6901 et seq.)

Existing law creates the Hazardous Waste Control Law (HWCL) and provides the DTSC with responsibility for overseeing the management of hazardous waste in California. (Health & Saf. Code, § 25100 et seq.).

Existing law defines hazardous wastes as those identified in regulation by DTSC; wastes categorized as hazardous under RCRA; and, extremely hazardous waste and acutely hazardous waste. (Health & Saf. Code, § 25117.)

Existing law defines a hazardous waste as a federal RCRA hazardous waste if it meets any of the following criteria:

- It exhibits any of the characteristics of ignitability, corrosivity, reactivity, or toxicity;
- It is listed as a hazardous waste under federal regulation; and,

- It is listed as a hazardous waste under state regulation. (Cal. Code Regs., tit. 22, § 66261.100.)

Existing law creates the California Uniform Controlled Substances Act (Act). (Health & Saf. Code, § 11000.)

Existing law defines controlled substance as a drug, substance, or immediate precursor which is listed in any schedule listed in law. (Health & Saf. Code, § 11007.)

Existing law designates controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of the Act as contraband and requires them to be seized and summarily forfeited to the state. (Health & Saf. Code, § 11475.)

Existing law requires all seizures of controlled substances, instruments, or paraphernalia used for unlawfully using or administering a controlled substance which are in possession of any city, county, or state official as found property, or as the result of a case in which no trial was had or which has been disposed of by way of dismissal or otherwise than by way of conviction, to be destroyed by order of the court, unless the court finds that the controlled substances, instruments, or paraphernalia were lawfully possessed by the defendant. (Health & Saf. Code, § 11473.5.)

Existing law authorizes a court order for the destruction of controlled substances, instruments, or paraphernalia to be carried out by a police or sheriff's department, the Department of Justice (DOJ), the Department of the California Highway Patrol, the Department of Cannabis Control, or the Department of Alcoholic Beverage Control. Requires the court order to specify the agency responsible for the destruction. (Health & Saf. Code, § 11474.)

Existing law requires a law enforcement agency responsible for the disposal of any hazardous chemical to comply with the provisions of the HWCL, as well as all applicable state and federal statutes and regulations. (Health & Saf. Code, § 11479.5.)

Existing law prescribes the retention and distribution of exhibits in a criminal case. (Pen. Code, § 1417 et seq.)

Existing law states that if an exhibit by its nature is toxic it shall be introduced in court in the form of photographic record and a written chemical analysis. (Pen. Code, § 1417.3)

This bill requires the DOJ, upon appropriation, in consultation with the DTSC and other relevant agencies, to develop and publish guidance on its website for the proper management and disposal of controlled substances in the possession of a local police department, sheriff's office, or state law enforcement agency.

COMMENTS

1. Need for This Bill

The author writes:

California law enforcement agencies are increasingly being asked to manage large quantities of dangerous controlled substances, including fentanyl, methamphetamine, and heroin, yet there is no uniform statewide framework for

how those materials should be handled once they are no longer needed as evidence. The closure of California's remaining in-state destruction facilities has only highlighted the lack of clear guidance available to local agencies. AB 1612 addresses this problem by establishing a pathway for law enforcement agencies to transfer eligible controlled substances to the Department of Justice for disposal and by requiring the Department of Justice to develop statewide guidance on the proper management and disposal of these materials. This bill is intended to provide law enforcement with the clarity, consistency, and support needed to safely manage dangerous controlled substances while protecting officers, preserving chain of custody, and promoting public safety

2. Existing Law Governing Hazardous Waste

The California Hazardous Waste Control Law (HWCL) is the state's program that implements and enforces federal hazardous waste law in California and directs DTSC to oversee and implement the state's HWCL. Any person who stores, treats, or disposes of hazardous waste must obtain a permit from DTSC. The HWCL covers the entire management of hazardous waste, from the point the hazardous waste is generated, to management, transportation, and ultimately disposal into a state or federal authorized facility.

The HWCL defines hazardous wastes as those identified in regulation by DTSC; wastes categorized as hazardous under RCRA; and extremely hazardous waste and acutely hazardous waste. (Health & Saf. Code, § 25117.)

Hazardous waste is federal RCRA hazardous waste if it meets any of the following criteria:

- It exhibits any of the characteristics of ignitability, corrosivity, reactivity, or toxicity;
- It is listed as a hazardous waste under federal regulation; and,
- It is listed as a hazardous waste under state regulation. (Cal. Code Regs., tit. 22, § 66261.100.)

3. Destruction of Pharmaceutical Waste

In 2018, the US EPA issued a memorandum which provides law enforcement agencies with information on how to more cost effectively manage household pharmaceuticals collected in take-back programs. Specifically, the memorandum describes the various options law enforcement agencies can use to transport and destroy household pharmaceuticals collected in take-back programs consistent with the applicable regulations under US EPA, Drug Enforcement Administration (DEA), Department of Transportation (DOT), and U.S. Postal Service (USPS). In the memo, US EPA clarifies that law enforcement agencies should NOT use "burn barrels" or any other uncontrolled open burning method or technology to destroy household pharmaceuticals collected during take-back events or in take-back kiosks.

US EPA also clarifies that law enforcement agencies are not required to drive collected household pharmaceuticals to a combustion facility. The collected pharmaceuticals can be sent for destruction via common carrier (in accordance with DEA and DOT or USPS procedures) for destruction at:

- Hazardous waste combustors;

- Large and small municipal waste combustors;
- Hospital, medical, and infectious waste incinerators;
- Commercial and industrial solid waste incinerators; or
- Very small municipal waste combustors that are regulated as other solid waste incinerators.

In the memorandum, US EPA additionally recommends that the collected household pharmaceuticals from take-back events be sent to a permitted hazardous waste combustor as this is the most environmentally protective approach.

DEA regulations require that collected household pharmaceuticals be destroyed in a manner that meets DEA's non-retrievable standard. DEA has indicated that incineration meets its non-retrievable standard of destruction.

Although law enforcement is not required to meet the DEA regulations that apply to DEA registrants, the DEA regulations state, "Any controlled substances collected by law enforcement through a take-back event, mail-back program, or collection receptacle should be transferred to a destruction location in a manner that prevents the diversion of controlled substances." As a result, US EPA assumes that law enforcement will also choose to meet DEA's non-retrievable standard of destruction for the household pharmaceuticals it collects to prevent the diversion of the controlled substances.

This US EPA guidance above is for law enforcement when administering a household pharmaceutical take-back event. The guidance does not provide information for law enforcement when managing seized controlled substances. Regardless of whether the substance is a pharmaceutical from a take-back event, or a seized controlled substance, it must be destroyed in a facility authorized under state and federal law to accept and destroy the substance.

4. Existing Law Governing the Destruction of Controlled Substances

California law enforcement agencies seize large quantities of illegal drugs including fentanyl, methamphetamine, and heroin. Under existing law, all seizures of controlled substances, instruments, or paraphernalia used for unlawfully using or administering a controlled substance which are in possession of any city, county, or state official as found property, or as the result of a case in which no trial was had or which has been disposed of by way of dismissal or otherwise than by way of conviction, must be destroyed by order of the court, unless the court finds that the controlled substances, instruments, or paraphernalia were lawfully possessed by the defendant. (Health & Saf. Code, § 11473.5.) A court order for the destruction of controlled substances, instruments, or paraphernalia may be carried out by a police or sheriff's department, the DOJ, the Department of the California Highway Patrol, the Department of Cannabis Control, or the Department of Alcoholic Beverage Control. The court order must specify the agency responsible for the destruction. (Health & Saf. Code, § 11474.) A law enforcement agency responsible for the disposal of any hazardous chemical to comply with the provisions of the HWCL, as well as all applicable state and federal statutes and regulations. (Health & Saf. Code, § 11479.5.)

While there are clear processes for destroying controlled substances in a take-back event, it is not clear what the procedures for law enforcement when destroying seized controlled substances. While these controlled substances are similar to pharmaceuticals from a take-back event, they are not the same.

For decades, these materials were securely destroyed at the state's two remaining municipal solid waste incinerators (Southeast Resource Recovery Facility in Long Beach and Reworld/Covanta at Crows Landing), which met strict DEA "non-retrievable" standards through high-temperature, controlled combustion. (21 CFR §1317.)

In 2022, AB 1857 removed the 10% diversion credit for waste sent to incinerators under the California Integrated Waste Management Act, reclassifying incineration as disposal and accelerating closures amid zero-waste mandates. By 2024, both facilities shut down, leaving agencies with no reliable in-state option.

Agencies now have the following alternatives:

- Prolonged storage in evidence lockers
- Long-haul transport to out-of-state incinerators in armored convoys, which carry logistical costs and are burdensome for rural departments.
- Chemical neutralization, which requires handling of reagents, often produces secondary hazardous waste residues needing further disposal
- Open-air burning under local permits, which releases uncontrolled smoke, particulates, dioxins, and toxins into the air, which are methods the EPA discourages

5. Effect of This Bill

This bill requires the DOJ, upon appropriation, in consultation with the DTSC and other relevant agencies, to develop and publish guidance on its website for the proper management and disposal of controlled substances in the possession of a local police department, sheriff's office, or state law enforcement agency.

6. Argument in Support

The Rural Counties Representatives of California writes:

Controlled substances can be extremely challenging for local governments and law enforcement agencies to properly manage and dispose, with fewer and fewer opportunities available within the geographic confines of the state. Hazardous wastes and controlled substances are inherently difficult to manage, with just two disposal facilities located in the state. For wastes that must be incinerated, local agencies are often left with few choices other than to ship those waste streams to incinerators located halfway across the country. These challenges are exacerbated for law enforcement agencies, who often must divert personnel to maintain custody of the materials until destruction. AB 1612 commendably seeks to provide clarity and guidance to law enforcement for how to properly manage and dispose of controlled substances.

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