

# Pharmaceutical Research and Manufacturers of America v. County of Alameda, California

**The Ruling** | The US Supreme Court **declined** to hear the Pharmaceutical Industry's case against Alameda County's Safe Drug Disposal Ordinance.

**This case is based on the dormant Commerce Clause of the US Constitution.**

## What is the Dormant Commerce Clause?

The dormant Commerce Clause is a legal doctrine derived from Article I of the U.S. Constitution that prevents states from taking actions that discriminate against or place a significant undue burden on interstate commerce. To determine whether a law violates the dormant Commerce Clause, courts first ask whether the law discriminates on its face against interstate commerce. In this context, "discrimination" would mean that the law favors in-state interests over out-of-state interests.

COURTS EVALUATE THE LAW USING A BALANCING TEST, TYPICALLY THE ONE ESTABLISHED IN *PIKE V. BRUCE CHURCH, INC.* (1970).

A law **violates** the dormant Commerce Clause if the burden on interstate commerce is **clearly excessive** compared to the local benefits.

A law **does not violate** the dormant Commerce Clause if the demonstrated benefits to public health and safety **outweigh the burden** on interstate commerce.

In denying certiorari (declining to hear the case), the Court declined to hear this challenge brought by industry groups, leaving the Ninth Circuit decision as controlling precedent in that jurisdiction. In 2014, the Ninth Circuit upheld the Ordinance, finding that it does not substantially burden interstate commerce and that it provides environmental, health, and safety benefits to the local community.

## Moving forward...

### Within the Ninth Circuit

This decision means that current take-back laws in Alameda County, CA; San Francisco, CA; San Mateo, CA; and King County, WA remain in effect, and similar future laws in the Ninth Circuit (Montana, Idaho, Washington, Oregon, California, Hawaii, Nevada, Arizona, Alaska, Guam, and the Northern Mariana Islands) would be on solid legal footing. Using Alameda's legislation as a model may reduce the likelihood of a successful legal challenge in the Ninth Circuit.

### Within the United States

Courts in other jurisdictions around the nation are not required to follow the reasoning of the Ninth Circuit, although they may find it persuasive.



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**Questions?** Contact Scott Cassel, Chief Executive Officer/Founder  
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