

ASSEMBLY BILL

No. 1187

Introduced by Assembly Member Simitian

February 23, 2001

An act to amend Sections 41820.5, 42845, 42961.5, 44009, and 48660 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1187, as introduced, Simitian. Solid waste: recycling: tires: permits: used oil.

(1) Existing law, the California Integrated Waste Management Act of 1989, establishes an integrated waste management program administered by the California Integrated Waste Management Board. Under existing law, the act requires each city, county, city and county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components and authorizes a city incorporated after January 1, 1990 to submit a source reduction and recycling element that includes a specified implementation schedule.

This bill would revise the element's implementation schedule for the diversion of solid waste from landfill or transformations facilities, based upon the date of the city's incorporation.

The bill would impose a state-mandated local program by establishing new duties upon local agencies with regard to the submission of a source reduction and recycling element.

(2) Existing law requires any person who stores, stockpiles, or accumulates waste tires in a specified manner, to clean up those waste tires or abate the effects thereof, or in the case of threatened pollution or nuisance, as defined, take other necessary remedial action, upon the

order of the board. If a person fails to comply with such an order, the Attorney General, district attorney or county counsel is required to file a petition within 45 days of the discovery of the failure to comply with the board's order, at the request of the board.

The bill would instead require the Attorney General to make such a petition, at the request of the board, and would authorize the district attorney or county counsel to file a petition within 45 days of the board's request, if the Attorney General declines, or is unable, to file a petition.

(3) Existing law requires every person who engages in the transportation of used and waste tires to hold a valid waste tire hauler registration.

This bill would define the term "waste and used tire hauler" for purposes of those provisions.

(4) The California Integrated Waste Management Act of 1989 prohibits the operation of a solid waste facility without a solid waste facilities permit and authorizes an enforcement agency to issue a solid waste facilities permit only if it makes certain findings regarding the consistency of the permit with the act and the regulations adopted by the board. The board is required to concur or object to the issuance, modification, or revision of a solid waste facilities permit within 60 days of the board's receipt of the proposed permit.

This bill would require the board to concur or object to the permit within 60 days from the date the board receives the permit, as part of a complete permit package, as defined, that complies with the act and the regulations adopted pursuant to the act.

(5) Existing law, the California Oil Recycling Enhancement Act, requires an oil manufacturer to pay the California Integrated Waste Management Board a specified amount for every gallon of lubricating oil sold or transferred in the state, or imported into the state for use in the state. These amounts are required to be deposited in the California Used Oil Recycling Fund, which is continuously appropriated for specified purposes, including the payment of recycling incentives to certified used oil collection centers. Existing law requires a used oil collection center to operate in a specified manner and prohibits a used oil collection center from accepting more than 20 gallons of used lubricating oil from a person each day.

This bill would authorize a certified used oil collection center that has received a specified variance from the Department of Toxic Substances Control to accept more than 20 gallons from a person each day.



(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41820.5 of the Public Resources Code
2 is amended to read:

3 41820.5. (a) In addition to its authority under Section 41820,
4 the board may, after a public hearing, grant a time extension from
5 the diversion requirements of Section 41780 to a city if both of the
6 following conditions exist:

7 (1) The city was incorporated pursuant to Division 3
8 (commencing with Section 56000) of Title 5 of the Government
9 Code after January 1, 1990.

10 (2) The county within which the city is located did not include
11 provisions in its franchises ~~which~~ *that* ensured that the now
12 incorporated area would comply with the diversion requirements
13 of Section 41780.

14 (b) The board may authorize a city which meets the
15 requirements of subdivision (a) to submit a source reduction and
16 recycling element ~~which~~ *that* includes an implementation
17 schedule that shows both of the following:

18 (1) ~~For the initial element, the~~ *The* city shall divert 25 percent
19 of ~~all its estimated generation amount of~~ solid waste from landfill
20 or transformation facilities within three years from the date on
21 which the ~~board approves the element~~ *source reduction and*
22 *recycling element is due pursuant to subdivision (b) of Section*
23 *41791.5*, through source reduction, recycling, and composting
24 activities.

25 (2) ~~For the first revision of the element, the~~ *The* city shall divert
26 50 percent of ~~all its estimated generation amount~~ solid waste from
27 landfill or transformation facilities within eight years from the date
28 on which the ~~board approves the element~~ *the source reduction and*
29 *recycling element is due pursuant to subdivision (b) of Section*



1 41791.5, through source reduction, recycling, and composting
2 activities.

3 SEC. 2. Section 42845 of the Public Resources Code is
4 amended to read:

5 42845. (a) Any person who stores, stockpiles, or
6 accumulates waste tires at a location for which a waste tire facility
7 permit is required pursuant to this chapter, or in violation of the
8 terms and conditions of the permit, the provisions of this chapter,
9 or the regulations adopted under this chapter, shall, upon order of
10 the board, clean up those waste tires or abate the effects thereof,
11 or, in the case of threatened pollution or nuisance, take other
12 necessary remedial action.

13 (b) (1) Upon failure of any person to comply with the cleanup
14 or abatement order, the Attorney General, ~~district attorney, or~~
15 ~~county counsel~~, at the request of the board, shall petition, ~~within~~
16 ~~45 days of the discovery of that failure~~, the superior court for that
17 county for the issuance of an injunction requiring the person to
18 comply with that order. In any suit, the court shall have jurisdiction
19 to grant a prohibitory or mandatory injunction, either preliminary
20 or permanent, as the facts may warrant.

21 (2) *If the Attorney General declines, or is unable, to petition the*
22 *appropriate superior court for issuance of an injunction within 45*
23 *days from the board’s request, pursuant to paragraph (1), the*
24 *district attorney or county counsel of that county may, at the*
25 *board’s request, petition the superior court for issuance of the*
26 *injunction specified in paragraph (1).*

27 SEC. 3. Section 42961.5 of the Public Resources Code is
28 amended to read:

29 42961.5. (a) For purposes of this chapter, “~~California~~ the
30 *following definitions shall apply:*

31 (1) “California Uniform Waste and Used Tire Manifest”
32 means a shipping document signed by a generator of waste or used
33 tires, a waste and used tire hauler, or the operator of a waste or used
34 tire facility that contains all of the information required by the
35 board, including, but not limited to, an accurate measurement of
36 the number of tires being shipped, the type or types of the tires, the
37 date the shipment originated, and the origin and intended final
38 destination of the shipment.



1 (2) “Waste and used tire hauler” means any person required to
2 be registered with the board pursuant to subdivision (a) of Section
3 42951.

4 (b) Any person generating waste or used tires that are
5 transported or submitted for transportation, for offsite handling,
6 altering, storage, disposal, or for any combination thereof, shall
7 complete a California Uniform Waste and Used Tire Manifest, as
8 required by the board. The generator shall provide the manifest to
9 the waste and used tire hauler at the time of transfer of the tires.
10 Each generator shall submit to the board, on a quarterly schedule,
11 a legible copy of each manifest. The copy submitted to the board
12 shall contain the signatures of the generator and the waste and used
13 tire hauler. If approved by the board, in lieu of submitting a copy
14 of each manifest used, a generator may submit an electronic report
15 to the board meeting the requirements of Section 42814.

16 (c) (1) Any waste and used tire hauler ~~registered as required by~~
17 ~~subdivision (a) of Section 42951~~ shall have the California Uniform
18 Waste and Used Tire Manifest in his or her possession while
19 transporting waste or used tires. The manifest shall be shown upon
20 demand to any representative of the board, any officer of the
21 California Highway Patrol, or any local public officer designated
22 by the local enforcement agency.

23 (2) Any waste and used tire hauler hauling waste or used tires
24 for offsite handling, altering, storage, disposal, or any
25 combination thereof, shall complete the California Uniform Waste
26 and Used Tire Manifest as required by the board. The waste and
27 used tire hauler shall provide the manifest to the waste or used tire
28 facility operator who receives the waste or used tires for handling,
29 altering, storage, disposal, or any combination thereof. Each waste
30 and used tire hauler shall submit to the board, on a quarterly
31 schedule, a legible copy of each manifest. The copy submitted to
32 the board shall contain the signatures of the generator and the
33 facility operator. If approved by the board, in lieu of submitting a
34 copy of each manifest used, a generator may submit an electronic
35 report to the board meeting the requirements of Section 42814.

36 (d) Each waste or used tire facility operator that receives waste
37 or used tires for handling, altering, storage, disposal, or any
38 combination thereof, that was transported with a manifest
39 pursuant to this section, shall submit copies of each manifest
40 provided by the waste and used tire hauler to the board and the



1 generator on a quarterly schedule. The copy submitted to the board
2 shall contain the signatures of each generator, each transporter, and
3 the facility operator. If approved by the board, in lieu of submitting
4 a copy of each manifest used, a facility operator may submit an
5 electronic report to the board meeting the requirements of Section
6 42814.

7 (e) The board shall develop and implement a system for
8 auditing manifests submitted to the board pursuant to this section,
9 for the purpose of enforcing this section. The board or its agent
10 shall continuously conduct random sampling and matching of
11 manifests submitted by any person generating waste or used tires,
12 hauling waste or used tires, or operating waste or used tire
13 facilities, to assure compliance with this section.

14 SEC. 4. Section 44009 of the Public Resources Code is
15 amended to read:

16 44009. (a) (1) The board shall, in writing, concur or object
17 to the issuance, modification, or revision of any solid waste
18 facilities permit within 60 days from the date of the board's receipt
19 of any proposed solid waste facilities permit submitted under
20 Section 44007, *as part of a complete permit package that complies*
21 *with this division, and the regulations adopted pursuant to this*
22 *division* after consideration of the issues in this section.

23 (2) If the board determines that the permit is not consistent with
24 the state minimum standards adopted pursuant to Section 43020,
25 or is not consistent with Sections 43040, 43600, 44007, 44010,
26 44017, 44150, and 44152 or Division 31 (commencing with
27 Section 50000), the board shall object to provisions of the permit
28 and shall submit those objections to the local enforcement agency
29 for its consideration.

30 (3) If the board fails to concur or object in writing within the
31 60-day period specified in paragraph (1), the board shall be
32 deemed to have concurred in the issuance of the permit as
33 submitted to it.

34 (4) *"Complete permit package" means the complete*
35 *application package required pursuant to Section 21570 of Title 27*
36 *of the California Code of Regulations.*

37 (b) Notwithstanding subdivision (a), the board is not required
38 to concur in, or object to, and shall not be deemed to have
39 concurred in, the issuance of a solid waste facilities permit for a
40 disposal facility if the owner or operator is not in compliance with,



1 as determined by the regional water board, an enforcement order
2 issued pursuant to Chapter 5 (commencing with Section 13300) of
3 Division 7 of the Water Code, or if all of the following conditions
4 exist:

5 (1) Waste discharge requirements for the disposal facility
6 issued by the applicable regional water board are pending review
7 in a petition before the state water board.

8 (2) The petition for review of the waste discharge requirements
9 includes a request for a stay of the waste discharge requirements.

10 (3) The state water board has not taken action on the stay
11 request portion of the pending petition for review of waste
12 discharge requirements.

13 (c) In objecting to the issuance, modification, or revision of any
14 solid waste facilities permit pursuant to this section, the board
15 shall, based on substantial evidence in the record as to the matter
16 before the board, state its reasons for objecting. The board shall not
17 object to the issuance, modification, or revision of any solid waste
18 facilities permit unless the board finds that the permit is not
19 consistent with the state minimum standards adopted pursuant to
20 Section 43020, or is not consistent with Section 43040, 43600,
21 44007, 44010, 44017, 44150, or 44152 or Division 31
22 (commencing with Section 50000).

23 (d) Nothing in this section is intended to require that a solid
24 waste facility obtain a waste discharge permit from a regional
25 water board prior to obtaining a solid waste facilities permit.

26 SEC. 5. Section 48660 of the Public Resources Code is
27 amended to read:

28 48660. (a) No used oil collection center shall be eligible for
29 the payment of recycling incentives until the board has certified
30 that the center is in compliance with the requirements specified in
31 subdivision (b). Before certification, the board may require the
32 center to submit any information that the board determines is
33 necessary to find that the center is in compliance with those
34 requirements. ~~The centers~~ A center shall reapply for certification
35 every two years. The board may cancel the certification of a center
36 if the board finds, after a public hearing, that the center is not, or
37 has not been, in compliance with subdivision (b). The board may
38 withhold the payment of recycling incentives for used lubricating
39 oil collected by a center if the board finds that the center was not



1 in compliance with subdivision (b) during the time in which the
2 used lubricating oil was collected.

3 (b) To be eligible for certification by the board and for the
4 payment of recycling incentives, the used oil collection center
5 shall do all of the following:

6 (1) (A) Accept used lubricating oil from the public at no
7 charge during the hours between 8 a.m. and 8 p.m. that the entity
8 operating as the center is open for business.

9 (B) The board may approve alternative hours for the
10 acceptance of used lubricating oil by an individual center if either
11 of the following conditions are met:

12 (i) The center accepts used lubricating oil for 12 continuous
13 hours daily.

14 (ii) The center demonstrates that compliance with Section
15 ~~280.42~~ 279.31 of Title 40 of the Code of Federal Regulations
16 prevents the center from complying with subparagraph (A).

17 (2) Pay to any person an amount equal to the recycling
18 incentive which the center will receive for used lubricating oil
19 brought to the center in containers by the person. Nothing in this
20 chapter prohibits any person from donating used lubricating oil to
21 a center. With the exception of centers that generate used
22 lubricating oil by servicing motor vehicles, the recycling incentive
23 may be in the form of a credit that may be applied toward the
24 purchase of goods or services offered by the center, as determined
25 by the board. The credit shall be in the form of a voucher or coupon
26 with a value of at least twice the incentive amount to be paid
27 pursuant to Section 48652 and have no other limits for use, unless
28 prescribed by the board.

29 (3) Provide information to the board for informing the public
30 of the center's acceptance of used lubricating oil.

31 (4) Provide notice to the public, through onsite signs and
32 periodic advertising in local media, of the center's acceptance of
33 used lubricating oil from the public. ~~Onsite~~

34 (A) *Onsite* signs shall be of a design prescribed by the board and
35 exterior signs shall be posted in a location that is easily visible from
36 a public street. ~~Certified centers~~

37 (B) A *certified center* shall post a combined symbolic and
38 information exterior sign of at least two feet by three feet in size,
39 or shall post an exterior symbolic sign of at least two feet by 18
40 inches in size. If the exterior symbolic sign is posted, the combined



1 symbolic and informational sign shall be concurrently posted so
2 that it is easily readable from the location where the used oil is
3 received from the public. The exterior symbolic sign shall include
4 the following words in a manner specified by the board: “Used Oil
5 Collection Center.” ~~The~~

6 (C) *The* informational portion of the combined signs shall
7 include the following words, in a manner specified by the board:
8 “Used Oil Collection Center—Recycling Incentive Paid for Used
9 Lubricating Oil in Containers During Business Hours from
10 Members of the Public Who Change Their Own Oil.” ~~A~~

11 (D) A center ~~which~~ *that* does not accept used lubricating oil
12 from the public during all of its business hours, but meets the
13 requirements of paragraph (1), shall indicate on the exterior sign
14 the hours when that used oil is accepted at no charge from the
15 public and these hours shall be posted instead of the business
16 hours. ~~Where~~

17 (E) *If* local zoning ordinances prevent signs of a size consistent
18 with this ~~section~~ *paragraph*, the exterior symbolic sign shall be of
19 the maximum allowable size.

20 (c) ~~Notwithstanding~~ (1) *Notwithstanding* subdivision (b), a
21 used oil collection center shall not accept more than 20 gallons of
22 used lubricating oil, in containers not larger than five gallons, from
23 a person each day, and may refuse to accept used lubricating oil
24 which has been contaminated in a manner other than that which
25 would occur through normal use.

26 (2) *Notwithstanding paragraph (1), a certified used oil*
27 *collection center that receives a variance from the Department of*
28 *Toxic Substances Control pursuant to Section 25143 of the Health*
29 *and Safety Code may accept more than 20 gallons from a person*
30 *each day.*

31 (d) *Notwithstanding subdivision (b), no used oil collection*
32 *center shall knowingly accept used lubricating oil for which a*
33 *payment has not been made pursuant to Section 48650.*

34 SEC. 6. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 a local agency or school district has the authority to levy service
37 charges, fees, or assessments sufficient to pay for the program or
38 level of service mandated by this act, within the meaning of



1 Section 17556 of the Government Code.

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