

AMENDED IN ASSEMBLY APRIL 18, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1187**

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**Introduced by Assembly Member Simitian**

February 23, 2001

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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 amended, 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~~ *repeal that prohibition.*

(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 that ensured that the now incorporated  
12 area would comply with the diversion requirements of Section  
13 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 that includes an implementation schedule that  
17 shows both of the following:

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

24 (2) The city shall divert 50 percent of its estimated generation  
25 amount solid waste from landfill or transformation facilities  
26 within eight years from the date on which the the source reduction  
27 and 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, at the request of the  
15 board, shall petition the superior court for that county for the  
16 issuance of an injunction requiring the person to comply with that  
17 order. In any suit, the court shall have jurisdiction to grant a  
18 prohibitory or mandatory injunction, either preliminary or  
19 permanent, as the facts may warrant.

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

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

28 42961.5. (a) For purposes of this chapter, "the following  
29 definitions shall apply:

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

38 (2) "Waste and used tire hauler" means any person required to  
39 be registered with the board pursuant to subdivision (a) of Section  
40 42951.



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

13 (c) (1) Any waste and used tire hauler shall have the California  
14 Uniform Waste and Used Tire Manifest in his or her possession  
15 while transporting waste or used tires. The manifest shall be shown  
16 upon demand to any representative of the board, any officer of the  
17 California Highway Patrol, or any local public officer designated  
18 by the local enforcement agency.

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

32 (d) Each waste or used tire facility operator that receives waste  
33 or used tires for handling, altering, storage, disposal, or any  
34 combination thereof, that was transported with a manifest  
35 pursuant to this section, shall submit copies of each manifest  
36 provided by the waste and used tire hauler to the board and the  
37 generator on a quarterly schedule. The copy submitted to the board  
38 shall contain the signatures of each generator, each transporter, and  
39 the facility operator. If approved by the board, in lieu of submitting  
40 a copy of each manifest used, a facility operator may submit an



1 electronic report to the board meeting the requirements of Section  
2 42814.

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

10 SEC. 4. Section 44009 of the Public Resources Code is  
11 amended to read:

12 44009. (a) (1) The board shall, in writing, concur or object  
13 to the issuance, modification, or revision of any solid waste  
14 facilities permit within 60 days from the date of the board's receipt  
15 of any proposed solid waste facilities permit submitted under  
16 Section 44007, as part of a complete permit package that complies  
17 with this division, and the regulations adopted pursuant to this  
18 division after consideration of the issues in this section.

19 (2) If the board determines that the permit is not consistent with  
20 the state minimum standards adopted pursuant to Section 43020,  
21 or is not consistent with Sections 43040, 43600, 44007, 44010,  
22 44017, 44150, and 44152 or Division 31 (commencing with  
23 Section 50000), the board shall object to provisions of the permit  
24 and shall submit those objections to the local enforcement agency  
25 for its consideration.

26 (3) If the board fails to concur or object in writing within the  
27 60-day period specified in paragraph (1), the board shall be  
28 deemed to have concurred in the issuance of the permit as  
29 submitted to it.

30 ~~(4) "Complete permit package" means the complete~~  
31 ~~application package required pursuant to Section 21570 of Title 27~~  
32 ~~of the California Code of Regulations.~~

33 (4) "Complete permit package" means the complete  
34 application package required pursuant to Section 18105.1 of Title  
35 14 of the California Code of Regulations or Section 21865 of Title  
36 27 of the California Code of Regulations, or any successor  
37 regulation, whichever is applicable.

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



1 disposal facility if the owner or operator is not in compliance with,  
2 as determined by the regional water board, an enforcement order  
3 issued pursuant to Chapter 5 (commencing with Section 13300) of  
4 Division 7 of the Water Code, or if all of the following conditions  
5 exist:

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

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

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

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

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

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

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





1 compliance with subdivision (b) during the time in which the used  
2 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  
15 279.31 of Title 40 of the Code of Federal Regulations prevents the  
16 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.

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

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.”

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.”

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

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

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