

AMENDED IN SENATE JULY 10, 2001
AMENDED IN ASSEMBLY APRIL 30, 2001
AMENDED IN ASSEMBLY APRIL 18, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1187

Introduced by Assembly Member Simitian

February 23, 2001

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1187, as amended, Simitian. Solid waste: recycling: tires: 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, *which is part of the act*, 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~~ *This* 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)~~

(2) 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)~~

(3) Existing law, the California Oil Recycling Enhancement Act, requires an oil manufacturer to pay the ~~California Integrated Waste Management Board~~ *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 repeal that prohibition.

~~(5) 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 no*.

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 source reduction and~~
27 ~~recycling element is due pursuant to subdivision (b) of Section~~
28 ~~41791.5, through source reduction, recycling, and composting~~
29 ~~activities.~~

30 ~~SEC. 2.~~

31 ~~SECTION 1. Section 42845 of the Public Resources Code is~~
32 ~~amended to read:~~



1 42845. (a) Any person who stores, stockpiles, or
2 accumulates waste tires at a location for which a waste tire facility
3 permit is required pursuant to this chapter, or in violation of the
4 terms and conditions of the permit, the provisions of this chapter,
5 or the regulations adopted under this chapter, shall, upon order of
6 the board, clean up those waste tires or abate the effects thereof,
7 or, in the case of threatened pollution or nuisance, take other
8 necessary remedial action.

9 (b) (1) Upon failure of any person to comply with the cleanup
10 or abatement order, the Attorney General, at the request of the
11 board, shall petition the superior court for that county for the
12 issuance of an injunction requiring the person to comply with that
13 order. In any suit, the court shall have jurisdiction to grant a
14 prohibitory or mandatory injunction, either preliminary or
15 permanent, as the facts may warrant.

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

22 ~~SEC. 3.—~~

23 *SEC. 2.* Section 42961.5 of the Public Resources Code is
24 amended to read:

25 42961.5. (a) For purposes of this chapter, the following
26 definitions shall apply:

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

35 (2) "Waste and used tire hauler" means any person required to
36 be registered with the board pursuant to subdivision (a) of Section
37 42951.

38 (b) Any person generating waste or used tires that are
39 transported or submitted for transportation, for offsite handling,
40 altering, storage, disposal, or for any combination thereof, shall



1 complete a California Uniform Waste and Used Tire Manifest, as
2 required by the board. The generator shall provide the manifest to
3 the waste and used tire hauler at the time of transfer of the tires.
4 Each generator shall submit to the board, on a quarterly schedule,
5 a legible copy of each manifest. The copy submitted to the board
6 shall contain the signatures of the generator and the waste and used
7 tire hauler. If approved by the board, in lieu of submitting a copy
8 of each manifest used, a generator may submit an electronic report
9 to the board meeting the requirements of Section 42814.

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

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

29 (d) Each waste or used tire facility operator that receives waste
30 or used tires for handling, altering, storage, disposal, or any
31 combination thereof, that was transported with a manifest
32 pursuant to this section, shall submit copies of each manifest
33 provided by the waste and used tire hauler to the board and the
34 generator on a quarterly schedule. The copy submitted to the board
35 shall contain the signatures of each generator, each transporter, and
36 the facility operator. If approved by the board, in lieu of submitting
37 a copy of each manifest used, a facility operator may submit an
38 electronic report to the board meeting the requirements of Section
39 42814.



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

8 ~~SEC. 4.—~~

9 *SEC. 3.* Section 48660 of the Public Resources Code is
10 amended to read:

11 48660. (a) No used oil collection center shall be eligible for
12 the payment of recycling incentives until the board has certified
13 that the center is in compliance with the requirements specified in
14 subdivision (b). Before certification, the board may require the
15 center to submit any information that the board determines is
16 necessary to find that the center is in compliance with those
17 requirements. A center shall reapply for certification every two
18 years. The board may cancel the certification of a center if the
19 board finds, after a public hearing, that the center is not, or has not
20 been, in compliance with subdivision (b). The board may withhold
21 the payment of recycling incentives for used lubricating oil
22 collected by a center if the board finds that the center was not in
23 compliance with subdivision (b) during the time in which the used
24 lubricating oil was collected.

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

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

31 (B) The board may approve alternative hours for the
32 acceptance of used lubricating oil by an individual center if either
33 of the following conditions ~~are~~ *is* met:

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

36 (ii) The center demonstrates that compliance with Section
37 279.31 of Title 40 of the Code of Federal Regulations prevents the
38 center from complying with subparagraph (A).

39 (2) Pay to any person an amount equal to the recycling
40 incentive which the center will receive for used lubricating oil



1 brought to the center in containers by the person. Nothing in this
2 chapter prohibits any person from donating used lubricating oil to
3 a center. With the exception of centers that generate used
4 lubricating oil by servicing motor vehicles, the recycling incentive
5 may be in the form of a credit that may be applied toward the
6 purchase of goods or services offered by the center, as determined
7 by the board. The credit shall be in the form of a voucher or coupon
8 with a value of at least twice the incentive amount to be paid
9 pursuant to Section 48652 and have no other limits for use, unless
10 prescribed by the board.

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

13 (4) Provide notice to the public, through onsite signs and
14 periodic advertising in local media, of the center's acceptance of
15 used lubricating oil from the public.

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

19 (B) A certified center shall post a combined symbolic and
20 information exterior sign of at least two feet by three feet in size,
21 or shall post an exterior symbolic sign of at least two feet by 18
22 inches in size. If the exterior symbolic sign is posted, the combined
23 symbolic and informational sign shall be concurrently posted so
24 that it is easily readable from the location where the used oil is
25 received from the public. The exterior symbolic sign shall include
26 the following words in a manner specified by the board: "Used Oil
27 Collection Center."

28 (C) The informational portion of the combined signs shall
29 include the following words, in a manner specified by the board:
30 "Used Oil Collection Center—Recycling Incentive Paid for Used
31 Lubricating Oil in Containers During Business Hours from
32 Members of the Public Who Change Their Own Oil."

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

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



1 (c) Notwithstanding subdivision (b), a used oil collection
2 center may refuse to accept used lubricating oil which has been
3 contaminated in a manner other than that which would occur
4 through normal use.

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

8 ~~SEC. 5.— No reimbursement is required by this act pursuant to~~
9 ~~Section 6 of Article XIII B of the California Constitution because~~
10 ~~a local agency or school district has the authority to levy service~~
11 ~~charges, fees, or assessments sufficient to pay for the program or~~
12 ~~level of service mandated by this act, within the meaning of~~
13 ~~Section 17556 of the Government Code.~~

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