

Senate Bill No. 88

Passed the Senate September 6, 2001

Secretary of the Senate

Passed the Assembly September 5, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 41705 of the Health and Safety Code, and to amend Section 43209.1 of the Public Resources Code, relating to air pollution, declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 88, Costa. Air pollution: odors.

(1) Existing law prohibits the discharge of any air contaminant or other material that causes injury, detriment, nuisance, or annoyance to, or that endangers, the public. Existing law exempts from that prohibition, among other things, all odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals and also exempts odors emanating directly from a facility or operation that produces, manufactures, or handles compost, as defined. Existing law also requires an air pollution control district or air quality management district that receives a complaint regarding an odor emanating from an exempt composting operation to refer the complaint to an enforcement agency with jurisdiction pursuant to the California Integrated Waste Management Act of 1989, and requires that agency to take appropriate enforcement action. Existing law also provides for the repeal of those provisions on January 1, 2002.

This bill would instead make those provisions inoperative on April 1, 2003, and after that date would exempt from that prohibition all odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals, unless the California Integrated Waste Management Board adopts and submits to the Office of Administrative Law on or before that date, regulations governing the operation of organic composting sites that include specified provisions. By extending the operation of the requirement that the district and the enforcement agency take appropriate action, the bill would impose a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims



Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) This bill would provide that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 41705 of the Health and Safety Code, as amended by Section 1 of Chapter 788 of the Statutes of 1997, is amended to read:

41705. (a) Section 41700 does not apply to odors emanating from any of the following:

(1) Agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(2) Operations that produce, manufacture, or handle compost, as defined in Section 40116 of the Public Resources Code, if the odors emanate directly from the compost facility or operations.

(3) Operations that compost green material or animal waste products derived from agricultural operations, and that return similar amounts of the compost produced to that same agricultural operations source, or to an agricultural operations source owned or leased by the owner, parent company, or subsidiary conducting the composting operation. The composting operation may produce an incidental amount of compost not exceeding 2,500 cubic yards of compost, which may be given away or sold annually.

(b) If a district receives a complaint pertaining to an odor emanating from a compost operation exempt from Section 41700 pursuant to paragraph (2) or (3) of subdivision (a), that is subject to the jurisdiction of an enforcement agency under Division 30 (commencing with Section 40000) of the Public Resources Code, the district shall, within 24 hours or by the next working day, refer the complaint to the enforcement agency.

(c) This section shall become inoperative on April 1, 2003, unless the California Integrated Waste Management Board adopts and submits regulations governing the operation of organic



composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 on or prior to that date.

SEC. 2. Section 41705 of the Health and Safety Code, as amended by Section 2 of Chapter 788 of the Statutes of 1997, is amended to read:

41705. (a) Section 41700 shall not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(b) This section shall become operative on April 1, 2003, unless the California Integrated Waste Management Board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 on or prior to that date.

SEC. 3. Section 43209.1 of the Public Resources Code is amended to read:

43209.1. (a) Notwithstanding any other provision of law, if an enforcement agency receives a complaint, pursuant to subdivision (b) of Section 41705 of the Health and Safety Code, from an air pollution control district or an air quality management district pertaining to an odor emanating from a compost facility under its jurisdiction, the enforcement agency shall, in consultation with the district, take appropriate enforcement actions pursuant to this part.

(b) On or before April 1, 1998, the board shall convene a working group consisting of enforcement agencies and air pollution control districts and air quality management districts to assist in the implementation of this section and Section 41705 of the Health and Safety Code. On or before April 1, 1999, the board and the working group shall develop recommendations on odor measurement and thresholds, complaint response procedures, and enforcement tools and take any other action necessary to ensure that enforcement agencies respond in a timely and effective manner to complaints of odors emanating from composting facilities. On or before January 1, 2000, the board shall implement the recommendations of the working group that the board determines to be appropriate.

(c) On or before April 1, 2003, the board shall adopt and submit to the Office of Administrative Law, pursuant to Section 11346.2 of the Government Code, regulations governing the operation of



organic composting sites that include, but are not limited to, any of the following:

- (1) Odor management and threshold levels.
- (2) Complaint investigation and response procedures.
- (3) Enforcement tools.

(d) This section shall become inoperative on April 1, 2003, unless the board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) on or prior to that date.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maintain continuity in achieving the purposes of the California Integrated Waste Management Act of 1989, it is necessary that this act take effect immediately.



Approved _____, 2001

Governor

