

Senate Bill No. 633

CHAPTER 656

An act to amend Section 25212 of, and to add Article 10.2 (commencing with Section 25214.5) to Chapter 6.5 of Division 20 of, the Health and Safety Code, and to amend the heading of Division 12.2 (commencing with Section 15000) of, to amend Section 42175.1 of, to add Chapter 5 (commencing with Section 15025) to Division 12.2 of, and to repeal Section 42176 of, the Public Resources Code, relating to mercury.

[Approved by Governor October 9, 2001. Filed with Secretary of State October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 633, Sher. Hazardous and solid waste: mercury.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste laws, including laws governing the removal of hazardous waste from a major appliance, as defined. A violation of the hazardous waste control laws is a crime.

This bill would enact the California Mercury Reduction Act of 2001.

The bill would require any mercury-containing vehicle light switch, as defined, that is removed from a vehicle to be subject to the regulations adopted by the Department of Toxic Substances Control regarding the management of universal waste and other applicable regulations, and would require the department to take specified actions with regard to the safe removal and disposal of those switches. Since a violation of these requirements would be a crime, the bill would impose a state-mandated local program. The department would be required to submit a specified report, by January 1, 2004, to the Legislature regarding these requirements.

(2) Existing law, the Dry Cell Battery Management Act, regulates the sale of specified batteries and, among other things, prohibits the sale of dry cell batteries containing specified amounts of mercury.

The bill would prohibit any person, except as specified, on and after July 1, 2002, from selling at retail or supplying a mercury fever thermometer, as defined, to a consumer or patient in the state, except by a prescription. The act would also prohibit any person, on and after January 1, 2003, from manufacturing, offering for sale or use, or distributing for promotional purposes in this state a mercury-added novelty, as defined. The act would also prohibit any school from purchasing, for use in the classroom, specified devices and materials



containing mercury, except measuring devices for use in school laboratories. The bill would prohibit the sale of a vehicle, after January 1, 2005, containing a mercury-containing vehicle light switch.

The bill would provide that a violation regarding mercury-added novelties is a misdemeanor, thereby imposing a state-mandated local program.

(3) Under existing law, the California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, materials that require special handling are defined to include, among other things, mercury found in switches and temperature control devices in major appliances. These materials are required to be removed from major appliances and from vehicles in which they are contained prior to crushing for transport or transferring to a baler or shredder for recycling. Existing law requires any hazardous material that becomes a hazardous waste when released or removed from a major appliance to be managed pursuant to specified hazardous waste control requirements regarding discarded appliances.

This bill would additionally require any mercury-containing motor vehicle light switch that becomes a hazardous waste when released or removed from a vehicle to be managed pursuant to the requirement regarding mercury-containing vehicle light switches that would be added by this bill. The bill would also provide that a failure to comply with those removal provisions is a violation of the hazardous waste control laws, thereby imposing a state-mandated local program by creating new crimes. The bill would require the department and specified local agencies to enforce these removal requirements.

(4) Existing law requires the board to develop and submit to the Legislature, on or before January 1, 1993, a management plan for the removal of materials that require special handling from major appliances and vehicles.

This bill would repeal the above provision.

(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.

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

SECTION 1. This act shall be known and may be cited as the California Mercury Reduction Act of 2001.

SEC. 2. The Legislature finds and declares all of the following:



(a) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and in the food chain.

(b) Due to the bioaccumulation of mercury and other contaminants in fish, the California Environmental Protection Agency has issued a warning advising that adults and women who are pregnant or who may become pregnant should limit their fish intake from several state waterways.

(c) Increasingly stringent mercury discharge limits for wastewater treatment plants make identification and elimination of unnecessary sources of mercury a critical task where the cost of mercury removal at a wastewater treatment plant is far greater than the societal benefits of continuing use of those products as currently formulated.

(d) The mercury in one fever thermometer is enough to contaminate more than 200 million gallons of water.

(e) There are accurate and safe alternatives to mercury fever thermometers that are readily available and comparable in cost.

(f) Each year, fever thermometers containing an estimated 17 tons of mercury are discarded to municipal solid waste in the United States.

(g) An estimated 130 to 180 tons of mercury are in the hood and trunk switches of automobiles currently in use or at automotive recycling yards throughout the United States.

(h) Mercury from consumer products can enter the environment, and ultimately the state's waterways, directly through vaporization or spillage when broken during use, transportation, or disposal.

(i) Any person or business engaged in the dismantling or crushing of motor vehicles is encouraged to remove mercury-containing motor vehicle light switches that are mounted on the hood or trunk of the vehicle, including any housing of the switch.

SEC. 3. Section 25212 of the Health and Safety Code is amended to read:

25212. (a) Any person who, pursuant to Section 42175 of the Public Resources Code, removes from a major appliance any material that requires special handling, that is a hazardous waste under this chapter, is a hazardous waste generator and shall comply with all provisions of this chapter applicable to generators of hazardous waste.

(b) All materials that require special handling that have been removed from a major appliance pursuant to Section 42175 of the Public Resources Code, and that are hazardous wastes, shall be managed in accordance with this chapter.

(c) Any person who fails to comply with the requirements of Section 42175 of the Public Resources Code is in violation of this chapter.

(d) (1) The department or a local health officer or other public officer authorized pursuant to Article 8 (commencing with Section 25180),



including, when applicable, a certified unified program agency (CUPA) or a unified program agency within the jurisdiction of a CUPA, shall incorporate both of the following into the existing inspection and enforcement activities of the department or the local health officer or other public officer:

(A) The regulation of materials that require special handling that, when removed from a major appliance, is hazardous waste.

(B) The enforcement of the requirements of Section 42175 of the Public Resources Code.

(2) The department, local health officers, or other public officers shall coordinate their activities as needed to identify and regulate materials that require special handling that, when removed from major appliances, are hazardous wastes that are transported from one jurisdiction to another.

SEC. 4. Article 10.2 (commencing with Section 25214.5) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.2. Motor Vehicle Switches

25214.5. For purposes of this article, “mercury-containing motor vehicle light switch” means any motor vehicle light switch found in the hood or trunk of a motor vehicle that contains mercury.

25214.6. Any mercury-containing motor vehicle light switch removed from a motor vehicle is subject to Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations, and any other applicable regulation adopted by the department pursuant to this chapter, including, but not limited to, standards for the handling of hazardous waste, standards for destination facilities, requirements for the tracking of universal waste shipments, import requirements, and the regulations governing different products.

25214.7. The department shall do all of the following:

(a) Coordinate with local agencies to provide technical assistance to businesses engaged in the dismantling or crushing of motor vehicles concerning the safe removal and proper disposal of mercury-containing light switches from motor vehicles, including information about vehicle makes and models that contain mercury light switches and entities that provide mercury recycling services.

(b) Coordinate and encourage entities, such as associations representing motor vehicle repair shops, to offer to the public the replacement and recycling of mercury-containing motor vehicle light switches.

(c) Make available to the public information concerning services to replace and recycle mercury-containing motor vehicle light switches.



25214.8. On or before January 1, 2004, the department shall report to the appropriate policy and fiscal committees of the Legislature on both of the following:

(a) The success of efforts to remove mercury-containing vehicle light switches from vehicles pursuant to Section 25214.6.

(b) Compliance with the requirement to remove mercury-containing appliance switches pursuant to Section 42175 of the Public Resources Code.

SEC. 5. The heading of Division 12.2 (commencing with Section 15000) of the Public Resources Code is amended to read:

DIVISION 12.2. PRODUCTS CONTAINING TOXIC METALS

SEC. 6. Chapter 5 (commencing with Section 15025) is added to Division 12.2 of the Public Resources Code, to read:

CHAPTER 5. CONSUMER PRODUCTS CONTAINING MERCURY

15025. For purposes of this article, the following terms have the following meanings:

(a) “Mercury-added novelty” means a mercury-added product intended mainly for personal or household enjoyment or adornment. A “mercury-added novelty” includes, but is not limited to, any item intended for use as a practical joke, figurine, adornment, toy, game, card, ornament, yard statue or figure, candle, jewelry, holiday decoration, and item of apparel, including footwear.

(b) “Mercury fever thermometer” means a mercury-added product that is used for measuring body temperature. Mercury fever thermometer does not include a digital thermometer that uses mercuric oxide button cell batteries.

(c) “School” means any school used for the purpose of the education of more than 12 children in kindergarten or any of grades 1 to 12, inclusive.

15026. (a) On and after July 1, 2002, no person, other than a person licensed pursuant to Article 9 (commencing with Section 4140) of Chapter 9 of Division 2 of the Business and Professions Code, may sell at retail, or otherwise supply, a mercury fever thermometer to a consumer or patient in this state. A mercury fever thermometer may be sold at retail, or otherwise supplied to a consumer or patient only upon the prescription of a physician, dentist, veterinarian, or podiatrist. A mercury fever thermometer sold at retail shall be accompanied by clear written instructions concerning careful handling to avoid breakage and proper cleanup should breakage occur.



(b) A violation of subdivision (a) is a violation of the requirements of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code and the California State Board of Pharmacy shall enforce the requirements of subdivision (a) in accordance with Chapter 9.

15027. (a) On and after January 1, 2003, no person shall manufacture, offer for final sale or use, or distribute for promotional purposes in this state, a mercury-added novelty, if the manufacturer, seller, or distributor knows, or has reason to know, that the product contains mercury. A person who manufactures or distributes any mercury-added novelty shall notify each retailer regarding the requirements of this section and how to dispose of the remaining inventory in accordance with Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(b) A violation of subdivision (a) is a violation of Article 2 (commencing with Section 108550) of Chapter 5 of Part 3 of Division 104 of the Health and Safety Code and, for purposes of that article, “mercury-added novelties” shall be deemed to be toys. The State Department of Health Services may take action against mercury-added novelties in the same manner as it is authorized to take action against toys, except that a violation of subdivision (a) is a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) for each violation, or by imprisonment in the county jail for a period not to exceed one year, or by both that fine and imprisonment.

15028. No school in this state shall purchase, for use in the classroom, elemental mercury, mercury compounds, or mercury-added laboratory measurement devices, chemicals, and related materials, except measuring devices used in school laboratories for which the school district determines no adequate substitute exists.

15029. No person may sell or offer for sale in this state a vehicle manufactured on or after January 1, 2005, that contains a mercury-containing motor vehicle light switch, as defined in Section 25214.5 of the Health and Safety Code, mounted on the hood or trunk.

SEC. 7. Section 42175.1 of the Public Resources Code is amended to read:

42175.1. (a) Any hazardous material that becomes a hazardous waste when released or removed from any major appliance shall be managed pursuant to Article 10.1 (commencing with Section 25211) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(b) Any mercury-containing motor vehicle light switch that becomes a hazardous waste when released or removed from any vehicle shall be managed pursuant to Article 10.2 (commencing with Section 25214.5) of Chapter 6.5 of Division 20 of the Health and Safety Code.



(c) Failure to comply with the requirements of Section 42175 is a violation of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

SEC. 8. Section 42176 of the Public Resources Code is repealed.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

