

AMENDED IN ASSEMBLY JUNE 13, 2001

AMENDED IN SENATE MAY 10, 2001

AMENDED IN SENATE APRIL 16, 2001

**SENATE BILL**

**No. 1158**

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**Introduced by Senator Knight**  
**(Coauthor: Senator Alpert)**  
*(Coauthor: Assembly Member Strom-Martin)*

February 23, 2001

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An act to amend Section 25201.14 of, and to add Section 25201.16 to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1158, as amended, Knight. Hazardous waste: universal waste aerosol cans.

(1) Under existing law, the Department of Toxic Substances Control is required to issue hazardous waste facilities permits to use and operate hazardous waste management units. Existing law exempts, from the hazardous waste facilities requirements, the puncturing, draining, or crushing of aerosol cans if specified requirements are met by the owner or operator conducting that activity, including that the equipment used is designed to capture the gaseous and liquid contents of the cans, prevent fire, explosion, and unauthorized releases of hazardous constituents, and prevent worker exposure to hazardous materials released from the cans, and is certified by the department. A violation of the hazardous waste control law is a crime.

The bill would delete the puncturing, draining, or crushing of aerosol cans from that exemption from hazardous waste facilities requirements. This bill would define the term of "universal waste aerosol can" as a

hazardous waste aerosol can while it is being managed in a specified manner. The bill would require a universal waste handler, as defined, to manage universal waste aerosol cans in a manner that prevents fire, explosion, and *the unauthorized* release of any ~~unauthorized~~ universal waste or component of a universal waste into the environment. The bill would require a universal waste handler to take specified actions to contain universal waste aerosol cans that show signs of leakage, and to accumulate universal waste aerosol cans in clearly marked, specifically designed containers, as specified. The bill would authorize a universal waste handler to remove and collect any contents of a universal waste aerosol can if the handler meets specified requirements, and would impose requirements on any contents of a universal waste aerosol can that exhibits a characteristic of hazardous waste. The bill would require a universal waste handler that processes universal waste aerosol cans to submit a specified notification to the Certified Unified Program Agency (CUPA) with jurisdiction over that universal waste handler, or to the agency authorized by the Secretary for Environmental Protection for that purpose. The bill would impose a state-mandated local program by creating new crimes regarding the management of universal waste aerosol cans.

~~The~~

(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.

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 25201.14 of the Health and Safety Code  
 2 is amended to read:  
 3 25201.14. (a) To the extent consistent with the federal act,  
 4 the following activities are exempt from this article, including the  
 5 requirements of obtaining a hazardous waste facilities permit or  
 6 other grant of authorization from the department, if the activity is  
 7 conducted at the site where the material was generated and the  
 8 management of the waste meets the requirements of subdivisions



1 (a) to (d), inclusive, of Section 25143.9 and subdivisions (b) and  
2 (c) of this section:

3 (1) Except as provided in subdivision (b), the separation of  
4 used oil from water, if all other applicable laws and regulations are  
5 met, the used oil is properly transported to an authorized oil  
6 recycler, and the separation is accomplished by using one of the  
7 following methods:

8 (A) Gravity separation.

9 (B) A centrifuge.

10 (C) Membrane technology.

11 (D) Heating of the water containing the used oil to a  
12 temperature that is not more than 20 degrees Fahrenheit below the  
13 flashpoint of the used oil component of the mixture at atmospheric  
14 pressure.

15 (E) The addition of demulsifiers to the water containing the  
16 used oil.

17 (2) (A) The operation of a totally enclosed treatment unit or  
18 facility, as defined in Section 66260.10 of Title 22 of the California  
19 Code of Regulations, when authorized by regulations adopted by  
20 the department pursuant to subparagraph (B).

21 (B) The department shall adopt regulations pursuant to Chapter  
22 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
23 Title 2 of the Government Code exempting this type of unit or  
24 facility from this article to the extent that the department  
25 determines that the exemption is consistent with the protection of  
26 public health, safety, and the environment.

27 (b) For purposes of paragraph (1) of subdivision (a), the  
28 separation of used oil from water does not include a method using  
29 any of the following:

30 (1) Contaminated groundwater.

31 (2) Water containing any measurable amount of gasoline or  
32 more than 2 percent of a combination of Number 1 or Number 2  
33 diesel fuel.

34 (3) Used oil and water which contain other constituents that  
35 render the material hazardous under the regulations adopted  
36 pursuant to Sections 25140 and 25141.

37 (c) A generator operating pursuant to subdivision (a) shall meet  
38 all of the following conditions:

39 (1) The generator complies with the conditions of subdivisions  
40 (d) and (e) of Section 25201.5.



1 (2) The generator submits a notification that is in compliance  
2 with paragraph (7) of subdivision (d) of Section 25201.5 on or  
3 before April 1, 1996, or if the generator is commencing the first  
4 treatment of waste pursuant to this section, not less than 60 days  
5 prior to the date of commencing treatment of that waste pursuant  
6 to this section. Upon demonstration of good cause by the  
7 generator, the department may allow a shorter time period than 60  
8 days between notification and commencement of hazardous waste  
9 treatment pursuant to this section. The generator shall be in  
10 compliance with all other notification requirements of subdivision  
11 (d) of Section 25201.5.

12 (3) The generator maintains adequate records to demonstrate  
13 that the requirements and conditions of this section are met,  
14 including appropriate waste sampling and analysis records, to  
15 demonstrate that none of the water and used oil mixtures listed in  
16 subdivision (b) are treated pursuant to this section. All records  
17 required pursuant to this paragraph and subdivision (d) of Section  
18 25201.5 shall be maintained onsite for a period of at least three  
19 years.

20 (4) Except as provided in Section 25404.5, the generator  
21 submits a one-time fee in the amount of one hundred dollars (\$100)  
22 to the department as part of the notification required by paragraph  
23 (2), at the same time that notification is submitted, unless the  
24 generator is subject to a fee under a permit-by-rule or a grant of  
25 conditional authorization pursuant to Section 25200.3.

26 (5) (A) If the generator is conducting treatment pursuant to  
27 paragraph (1) of subdivision (a), the generator complies with the  
28 phase I environmental assessment requirements of Section  
29 25200.14, except for subdivisions (d), (f), and (g) of Section  
30 25200.14. The generator shall not be required to comply with this  
31 subparagraph until the department completes an evaluation of the  
32 phase I environmental assessment requirement, pursuant to  
33 Section 25200.14.1, and until any revisions resulting from that  
34 evaluation are implemented by statute or regulation.

35 (B) A generator conducting treatment pursuant to paragraph  
36 (2) of subdivision (a) shall not be required to conduct any site  
37 investigations, beyond that required by subparagraph (A), or to  
38 initiate remediation activities until the department adopts  
39 regulations specifying the criteria and procedures for corrective  
40 action at non-RCRA facilities.



1 (C) This paragraph does not limit the authority of the  
2 department or a unified program agency approved pursuant to  
3 Section 25404.1 to issue an order pursuant to Section 25187.1 or  
4 to order corrective action pursuant to Section 25187.

5 SEC. 2. Section 25201.16 is added to the Health and Safety  
6 Code, to read:

7 25201.16. (a) For purposes of this section, the following  
8 terms have the following meanings:

9 (1) “Aerosol can” means a container in which gas under  
10 pressure is used to aerate and dispense any material through a valve  
11 in the form of a spray or foam.

12 (2) “Aerosol can processing” means the puncturing, draining,  
13 or crushing of aerosol cans.

14 (3) “CUPA” means a Certified Unified Program Agency, as  
15 defined in Section 25404.

16 (4) “Destination facility,” as used in ~~Section 66273.9~~ *Chapter*  
17 *23 (commencing with Section 66273.1) of Division 4.5* of Title 22  
18 of the California Code of Regulations, also includes a facility that  
19 treats, except as described in subdivision (d), or disposes of, a  
20 hazardous waste aerosol can that is shipped to the facility as a  
21 universal waste aerosol can, except destination facility does not  
22 include a facility at which universal waste aerosol cans are merely  
23 accumulated.

24 (5) “Hazardous waste aerosol can” means an aerosol can that  
25 meets the definition of hazardous waste, as defined in Section  
26 25117.

27 (6) “Universal waste aerosol can” means a hazardous waste  
28 aerosol can while it is being managed in accordance with  
29 subdivision (d). Upon receipt of a universal waste aerosol can by  
30 a destination facility for purposes of treatment or disposal, the can  
31 is no longer a universal waste aerosol can, but ~~is continues to be~~  
32 a hazardous waste aerosol can ~~for the purposes of this section.~~

33 ~~(7) “Universal waste handler,” means a person who generates~~  
34 ~~a universal waste aerosol can or the owner or operator of a facility,~~  
35 ~~including all contiguous property that receives universal waste~~  
36 ~~aerosol cans from other universal waste handlers, accumulates~~  
37 ~~universal waste aerosol cans, and sends universal waste aerosol~~  
38 ~~cans to another universal waste handler, to a destination facility,~~  
39 ~~or to a foreign destination. “Universal waste handler, does not~~



1 (7) *With respect to a universal waste aerosol can, the term*  
2 *“universal waste handler,” as defined in Section 66273.9 of Title*  
3 *22 of the California Code of Regulations, does not include either*  
4 *of the following:*

5 (A) A person who treats, except as described in subdivision (d),  
6 or disposes of hazardous waste aerosol cans including universal  
7 waste aerosol cans.

8 (B) A person engaged in offsite transportation of hazardous  
9 waste aerosol cans, including, but not limited to, universal waste  
10 aerosol cans, by air, rail, highway, or water, including a universal  
11 waste aerosol can transfer facility.

12 (b) (1) The requirements of this section apply to any universal  
13 waste handler that manages aerosol cans, except for the following:

14 (A) Aerosol cans that are not yet wastes pursuant to Chapter 11  
15 (commencing with Section 66261.1) of Division 4.5 of Title 22 of  
16 the California Code of Regulations.

17 (B) Aerosol cans that do not exhibit a characteristic of a  
18 hazardous waste as set forth in Article 3 (commencing with  
19 Section 66261.20) of Chapter 11 of Division 4.5 of Title 22 of the  
20 California Code of Regulations.

21 (C) *Aerosol cans that are empty pursuant to subsection (m) of*  
22 *Section 66261.7 of Title 22 of the California Code of Regulations.*

23 (2) (A) An aerosol can is a waste, for purposes of Section  
24 25124, on the date the aerosol can is discarded or is no longer  
25 useable. For purposes of this section, an aerosol can is deemed to  
26 be no longer useable when any of the following occurs:

27 (i) The can is as empty as possible, using standard practices.

28 (ii) The spray mechanism no longer operates as designed.

29 (iii) The propellant is spent.

30 (iv) The product is no longer used.

31 (B) An unused aerosol can is a waste, for purposes of Section  
32 25124, on the date the owner decides to discard it.

33 (c) (1) The disposal of any hazardous waste aerosol can is  
34 subject to the requirements of this chapter, and to any regulations  
35 adopted by the department relating to the disposal of hazardous  
36 waste.

37 (2) The treatment or storage, by any method not described in  
38 this section, of any hazardous waste aerosol can that is subject to  
39 the requirements of this chapter, and any regulations adopted by



1 the department relating to the treatment and storage of hazardous  
2 waste.

3 ~~(d) Notwithstanding this chapter, a hazardous waste aerosol~~  
4 ~~can is a universal waste for the purposes of Section 66273.9 of Title~~  
5 ~~22 of the California Code of Regulations, is managed in~~  
6 ~~accordance with this section and shall be subject to Chapter 23~~  
7 ~~(commencing with Section 66273.1) of Division 4.5 of Title 22 of~~  
8 ~~the California Code of Regulations, and any successor regulations;~~

9 *(d) A universal waste aerosol can is deemed to be a universal*  
10 *waste for purposes of the department's regulations governing the*  
11 *management of universal waste, if the aerosol can is managed in*  
12 *accordance with all of the following requirements:*

13 (1) A generator of a hazardous waste aerosol can is not subject  
14 to the exemptions described in Sections 66273.8 and 66273.10,  
15 relating to households and conditionally exempt small quantity  
16 universal waste generators.

17 (2) A universal waste handler shall manage universal waste  
18 aerosol cans in a manner that prevents fire, explosion, and the  
19 *unauthorized* release of any ~~unauthorized~~ universal waste or  
20 component of a universal waste to the environment, including, but  
21 not limited to, all of the following requirements:

22 (A) A universal waste handler shall immediately contain any  
23 universal waste aerosol can that shows evidence of leakage,  
24 spillage, or damage that could cause leakage under reasonably  
25 foreseeable conditions in a separate individual container. Each  
26 container shall be closed, structurally sound, compatible with the  
27 contents of the universal waste aerosol can, and may not  
28 demonstrate any characteristic or damage that may cause a leak or  
29 spill under reasonably foreseeable conditions, as determined by  
30 the department.

31 (B) A universal waste handler shall accumulate universal waste  
32 aerosol cans in clearly marked, specially designated accumulation  
33 containers. The accumulation containers shall be closed,  
34 structurally sound, compatible with the contents of the universal  
35 waste aerosol cans, and may not demonstrate any characteristic or  
36 damage that may cause a leak or spill under reasonably foreseeable  
37 conditions, as determined by the department. The universal waste  
38 aerosol cans shall be accumulated in a manner that is sorted by type  
39 and compatibility of contents to ensure that incompatible materials  
40 are segregated and managed appropriately. Flammable wastes



1 shall be stored away from heat and open flames. Containers used  
2 to accumulate universal waste aerosol cans shall be placed on or  
3 above a nonearthen floor that is free of cracks or gaps and is  
4 sufficiently impervious and bermed to contain leaks and spills.

5 (C) A universal waste handler may process universal waste  
6 aerosol cans to remove and collect the contents of a universal waste  
7 aerosol can, if the handler meets all of the following requirements:

8 (i) Is not an offsite commercial processor of aerosol cans. For  
9 the purposes of this clause, a household hazardous waste collection  
10 facility, as defined in subdivision (f) of Section 25218.1, is not an  
11 offsite commercial processor.

12 (ii) Ensures that the universal waste aerosol can is processed in  
13 a manner designed to prevent fire, explosion, and the unauthorized  
14 release of any universal waste or component of universal waste to  
15 the environment.

16 (iii) Ensures that the unit used to process the universal waste  
17 aerosol cans is placed on or above a nonearthen floor that is free  
18 of cracks or gaps and is sufficiently impervious and bermed to  
19 contain leaks and spills.

20 (iv) Ensures that the processing operations are performed  
21 safely by developing and implementing a written operating  
22 procedure detailing the safe processing of universal waste aerosol  
23 cans. This procedure shall, at a minimum, include all of the  
24 following:

25 (I) The type of equipment to be used to process the universal  
26 waste aerosol cans safely.

27 (II) Operation and maintenance of the unit.

28 (III) Segregation of incompatible wastes.

29 (IV) Proper waste management practices, including ensuring  
30 that flammable wastes are stored away from heat and open flames.

31 (V) Waste characterization.

32 (v) Ensures that a spill cleanup kit is readily available to  
33 immediately clean up spills or leaks of the contents of the universal  
34 waste aerosol can which may occur during the can processing  
35 operation.

36 (vi) Immediately transfers the contents of the universal waste  
37 aerosol can or processing device, if applicable, to a container that  
38 is managed in accordance with the applicable requirements of  
39 Section 66262.34 of Title 22 of the California Code of  
40 Regulations.



1 (vii) Ensures that the area in which the universal waste aerosol  
2 cans are processed is well ventilated.

3 (viii) Ensures, through a training program utilizing the written  
4 operating procedures developed pursuant to clause (iv), that each  
5 employee is thoroughly familiar with the procedure for sorting and  
6 processing universal waste aerosol cans, and proper waste  
7 handling and emergency procedures relevant to his or her  
8 responsibilities during normal facility operations and  
9 emergencies.

10 (D) A universal waste handler who processes universal waste  
11 aerosol cans to remove the contents of the aerosol can, or who  
12 generates other waste as a result of the processing of aerosol cans,  
13 shall determine whether the contents of the universal waste aerosol  
14 can, residues, or other wastes exhibit a characteristic of hazardous  
15 waste identified in Article 3 (commencing with Section 66261.20)  
16 of Chapter 11 of Division 4.5 of Title 22 of the California Code of  
17 Regulations.

18 (i) If the contents of the universal waste aerosol can, residues,  
19 or other wastes exhibit a characteristic of hazardous waste, those  
20 ~~contents~~ *wastes* shall be managed in compliance with all  
21 applicable requirements of this chapter and the regulations  
22 adopted by the department pursuant to this chapter. The universal  
23 waste handler shall be deemed the generator of that hazardous  
24 waste and is subject to the requirements of Chapter 12  
25 (commencing with Section 66262.10) of Division 4.5 of Title 22  
26 of the California Code of Regulations.

27 (ii) If the contents of the universal waste aerosol can, residues,  
28 or other wastes are not hazardous, the universal waste handler shall  
29 manage those ~~contents~~ *wastes* in a manner that is in compliance  
30 with ~~all applicable existing federal, state, and local regulations.~~ *all*  
31 *applicable federal, state, and local requirements.*

32 (E) (i) A universal waste handler that processes universal  
33 waste aerosol cans shall, no later than the date on which the handler  
34 first initiates this activity, submit a notification, in person or by  
35 certified mail, with return receipt requested, to either of the  
36 following:

37 (I) The CUPA, if the facility is under the jurisdiction of a  
38 CUPA.

39 (II) If the facility is not under the jurisdiction of a CUPA, the  
40 notification shall be submitted to the agency authorized, pursuant



1 to subdivision (f) of Section 25404.3, to implement and enforce  
2 the requirements of this chapter listed in paragraph (1) of  
3 subdivision (c) of Section 25404.

4 (ii) Each notification submitted pursuant to this subparagraph  
5 shall be completed, dated, and signed according to the  
6 requirements of Section 66270.11 of Title 22 of the California  
7 Code of Regulations, and shall include, but not be limited to, all  
8 of the following information:

9 (I) The name, identification number, site address, mailing  
10 address, and telephone number of the handler.

11 (II) A description of the universal waste aerosol can processing  
12 activities, including the type and estimated volumes or quantities  
13 of universal waste aerosol cans to be processed monthly, the  
14 treatment process or processes, equipment descriptions, and  
15 design capacities.

16 (III) A description of the characteristics and management of  
17 any hazardous treatment residuals.

18 (iii) Within 30 days of any change in operation which  
19 necessitates modifying any of the information submitted in the  
20 notification required pursuant to this subparagraph, the handler  
21 shall submit an amended notification, in person or by certified  
22 mail, with return receipt requested, to either of the following:

23 (I) The CUPA, if the facility is under the jurisdiction of a  
24 CUPA.

25 (II) If the facility is not under the jurisdiction of a CUPA, the  
26 notification shall be submitted to the agency authorized, pursuant  
27 to subdivision (f) of Section 25404.3, to implement and enforce  
28 the requirements of this chapter listed in paragraph (1) of  
29 subdivision (c) of Section 25404.

30 (iv) Each amended notification shall be completed, dated, and  
31 signed in accordance with the requirements of Section 66270.11  
32 of Title 22 of the California Code of Regulations, as those  
33 requirements apply to hazardous waste facilities permit  
34 applications.

35 (3) A ~~universal waste aerosol can, or a container in which~~  
36 universal waste aerosol cans are contained, shall be labeled or  
37 marked clearly with one of the following phrases, ~~as applicable~~:

38 (A) "Universal Waste Aerosol Cans."

39 (B) "Waste Aerosol Cans."

40 (C) "Used Aerosol Cans."



1 (4) In addition to the requirements set forth in Article 4  
2 (commencing with Section 66273.50) of Chapter 23 of Division  
3 4.5 of Title 22 of the California Code of Regulations, a transporter  
4 of universal waste aerosol cans shall transport and otherwise  
5 manage universal waste aerosol cans in a manner that prevents fire,  
6 explosion, and *the unauthorized* release of any universal waste, or  
7 component of a universal waste, into the environment. These  
8 requirements shall include, but shall not be limited to, all of the  
9 following, which apply during transportation and storage at a  
10 transfer facility:

11 (A) Universal waste aerosol cans shall be transported and  
12 stored in specially designated accumulation containers that are  
13 clearly marked for that use. The containers shall be closed,  
14 structurally sound, compatible with the contents of the universal  
15 waste aerosol cans, and shall not demonstrate any characteristic or  
16 damage that may cause a leak or spill under reasonably foreseeable  
17 conditions, as determined by the department.

18 (B) Incompatible materials shall be kept segregated and  
19 managed appropriately in separate containers.

20 (C) Flammable wastes shall be kept a safe distance from heat  
21 and open flames.

22 (D) During storage at a universal waste transfer facility,  
23 containers used to accumulate universal waste aerosol cans shall  
24 be placed on or above a nonearthen floor that is free of cracks or  
25 gaps, and that is sufficiently impervious and bermed to contain  
26 leaks and spills. The owner or operator of a destination facility that  
27 treats, except as described in subdivision (d), or disposes of any  
28 hazardous waste aerosol can, including, but not limited to, a  
29 universal waste aerosol can, is subject to all applicable  
30 requirements of this chapter and the regulations adopted pursuant  
31 to this chapter. Upon receipt of a universal waste aerosol can by a  
32 destination facility for purposes of treatment or disposal, the can  
33 is no longer a universal waste aerosol can, but is a hazardous waste  
34 aerosol can for the purposes of this chapter.

35 ~~(f)~~

36 (e) The department may adopt regulations specifying any  
37 additional requirement or limitation on the management of  
38 hazardous waste aerosol cans that the department determines is  
39 necessary to protect human health or safety or the environment.

40 ~~(g)~~



1 (f) The development and publication of the notification form  
 2 specified in subparagraph (E) of paragraph (2) of subdivision (d)  
 3 is not subject to the requirements described in Chapter 3.5  
 4 (commencing with Section 11340) of Part I of Division 3 of Title  
 5 2 of the Government Code.

6 ~~(h) In addition to the requirements set forth in this article, a~~

7 (g) *In addition to the requirements set forth in this section, a*  
 8 hazardous waste aerosol cans shall be managed in a manner that  
 9 meets all requirements established by the United States  
 10 Environmental Protection Agency.

11 *SEC. 3. No reimbursement is required by this act pursuant to*  
 12 *Section 6 of Article XIII B of the California Constitution because*  
 13 *the only costs that may be incurred by a local agency or school*  
 14 *district will be incurred because this act creates a new crime or*  
 15 *infraction, eliminates a crime or infraction, or changes the penalty*  
 16 *for a crime or infraction, within the meaning of Section 17556 of*  
 17 *the Government Code, or changes the definition of a crime within*  
 18 *the meaning of Section 6 of Article XIII B of the California*  
 19 *Constitution.*

