

AMENDED IN SENATE APRIL 2, 2002

SENATE BILL

No. 1696

Introduced by Senator Knight

February 21, 2002

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An act to amend ~~Sections 25205.6 and 25205.16~~ *Section 25205.6* of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1696, as amended, Knight. Hazardous materials: ~~Toxic Substances Control Account~~ *generator fees.*

~~(1) Existing~~

*Existing* law requires corporations that use, generate, store, or conduct activities in this state related to hazardous materials to pay an annual charge, based upon a schedule of standard Industrial Classification Codes provided by the department to the State Board of Equalization. Existing law specifies a schedule for the fee, based upon the number of employees employed by a corporation, *defined as the number of persons employed in the state for more than 500 hours during the calendar year preceding the calendar year in which the fee is due.* ~~A violation of the hazardous waste control laws is a crime.~~

*This bill would revise that definition to include only the number of persons employed by that corporation in the state for more than 1,000 hours during that preceding calendar year.*

~~Under existing law, specified funds, including this charge imposed on corporations handling hazardous materials, are deposited in the Toxic Substances Control Account in the General Fund and the funds deposited in the Toxic Substances Control Account are appropriated to the Department of Toxic Substances Control for specified purposes~~

~~relating to the cleanup of hazardous substance release sites and for railroad accident prevention.~~

~~This bill would instead require the charge to be based upon the amount of hazardous waste generated by a corporation, using the formula for the annual fee imposed upon generators of hazardous waste, except that the department would be required to set the base rate for this fee at an unspecified amount. The bill would also make conforming changes.~~

~~Since the bill would impose a charge upon the generators of hazardous waste for the cleanup of hazardous substances release sites and railroad accident prevention, the bill would impose a state tax for purposes of Article XIII A of the California Constitution. Since a failure to pay these charges would be a crime, the bill would impose a state-mandated local program by creating new crimes.~~

~~(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:  $\frac{2}{3}$  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 25205.6 of the Health and Safety Code
- 2 is amended to read:
- 3 ~~25205.6. (a) On or before November 1 of each year, the~~
- 4 25205.6. (a) On or before November 1 of each year, the
- 5 department shall provide the board with a schedule of codes, that
- 6 consists of the types of corporations that use, generate, store, or
- 7 conduct activities in this state related to hazardous materials, as
- 8 defined in Section 25501, including, but not limited to, hazardous
- 9 waste. The schedule shall consist of identification codes from one
- 10 of the following classification systems, as deemed suitable by the
- 11 department:
- 12 (1) The Standard Industrial Classification (SIC) system
- 13 established by the United States Department of Commerce.
- 14 (2) The North American Industry Classification System
- 15 (NAICS) adopted by the United States Census Bureau.



1 (b) Each corporation of a type identified in the schedule  
2 adopted pursuant to subdivision (a) shall pay an annual fee, which  
3 shall be set at two hundred dollars (\$200) for those corporations  
4 with 50 or more employees, but less than 75 employees, three  
5 hundred fifty dollars (\$350) for those corporations with 75 or more  
6 employees, but less than 100 employees, seven hundred dollars  
7 (\$700) for those corporations with 100 or more employees, but less  
8 than 250 employees, one thousand five hundred dollars (\$1,500)  
9 for those corporations with 250 or more employees, but less than  
10 500 employees, two thousand eight hundred dollars (\$2,800) for  
11 those corporations with 500 or more employees, but less than  
12 1,000 employees, and nine thousand five hundred dollars (\$9,500)  
13 for those corporations with 1,000 or more employees.

14 (c) The fee imposed pursuant to this section shall be paid by  
15 each corporation that is identified in the schedule adopted pursuant  
16 to subdivision (a) in accordance with Part 22 (commencing with  
17 Section 43001) of Division 2 of the Revenue and Taxation Code  
18 and shall be deposited in the Toxic Substances Control Account.  
19 The revenues shall be available, upon appropriation by the  
20 Legislature, for the purposes specified in subdivision (b) of  
21 Section 25173.6.

22 (d) For purposes of this section, the number of employees  
23 employed by a corporation is the number of persons employed in  
24 this state for more than ~~500~~ 1,000 hours during the calendar year  
25 preceding the calendar year in which the fee is due.

26 (e) The fee rates specified in subdivision (b) are the rates for the  
27 1998 calendar year. Beginning with the 1999 calendar year, and for  
28 each calendar year thereafter, the State Board of Equalization shall  
29 adjust the rates annually to reflect increases or decreases in the cost  
30 of living during the prior fiscal year, as measured by the Consumer  
31 Price Index issued by the Department of Industrial Relations or by  
32 a successor agency.

33 (f) Pursuant to paragraph (3) of subsection (c) of Section 104  
34 of the federal Comprehensive Environmental Response,  
35 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
36 Sec. 9604(c)(3)), the state is obligated to pay specified costs of  
37 removal and remedial actions carried out pursuant to the federal  
38 Comprehensive Environmental Response, Compensation, and  
39 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).  
40 The fee rates specified in subdivision (b) are intended to provide



1 sufficient revenues to fund the purposes of subdivision (b) of  
2 Section 25173.6, including appropriations in any given fiscal year  
3 of three million three hundred thousand dollars (\$3,300,000) to  
4 fund the state's obligation pursuant to paragraph (3) of subsection  
5 (c) of Section 104 of the federal Comprehensive Environmental  
6 Response, Compensation, and Liability Act of 1980, as amended  
7 (42 U.S.C. Sec. 9604(c)(3)). If the department determines that the  
8 state's obligation under paragraph (3) of subsection (c) of Section  
9 104 of the federal Comprehensive Environmental Response,  
10 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
11 Sec. 9604(c)(3)) will exceed three million three hundred thousand  
12 dollars (\$3,300,000) in any fiscal year, the department shall report  
13 that determination to the Legislature in the Governor's Budget. If,  
14 as part of the Budget Act deliberations, the Legislature concurs  
15 with the department's determination, the Legislature shall specify  
16 in the annual Budget Act those pro rata changes to the fee rates  
17 specified in subdivision (b) that will increase revenues in the next  
18 calendar year as necessary to fund the state's increased obligations.  
19 However, the Legislature shall not specify fee rates in the annual  
20 Budget Act that increase revenues in an amount greater than eight  
21 million two hundred thousand dollars (\$8,200,000) above the  
22 revenues provided by the fee rates specified in subdivision (b).  
23 Any changes in the fee rates approved by the Legislature in the  
24 annual Budget Act pursuant to this subdivision shall have effect  
25 only on the fee payment that is due and payable by the end of  
26 February in the fiscal year for which that annual Budget Act is  
27 enacted.

28 (g) This section does not apply to a nonprofit corporation  
29 primarily engaged in the provision of residential social and  
30 personal care for children, the aged, and special categories of  
31 persons with some limits on their ability for self-care, as described  
32 in SIC Code 8361 of the Standard Industrial Classification (SIC)  
33 Manual published by the United States Office of Management and  
34 Budget, 1987 edition.

35 ~~department shall provide the board with a schedule of codes, that~~  
36 ~~consists of the types of corporations that use, generate, store, or~~  
37 ~~conduct activities in this state related to hazardous materials, as~~  
38 ~~defined in Section 25501, including, but not limited to, hazardous~~  
39 ~~waste. The schedule shall consist of identification codes from one~~



1 of the following classification systems, as deemed suitable by the  
2 department:

3 (1) The Standard Industrial Classification (SIC) system  
4 established by the United States Department of Commerce.

5 (2) The North American Industry Classification System  
6 (NAICS) adopted by the United States Census Bureau.

7 (b) Each corporation of a type identified in the schedule  
8 adopted pursuant to subdivision (a) shall pay an annual fee, which  
9 shall be based upon the amount of hazardous waste generated by  
10 that corporation, using the formula specified in subdivision (c) of  
11 Section 25205.5, except the department shall set the base rate for  
12 this fee at (\$\_\_\_\_\_).

13 (c) The fee imposed pursuant to this section shall be paid by  
14 each corporation that is identified in the schedule adopted pursuant  
15 to subdivision (a) in accordance with Part 22 (commencing with  
16 Section 43001) of Division 2 of the Revenue and Taxation Code  
17 and shall be deposited in the Toxic Substances Control Account.  
18 The revenues shall be available, upon appropriation by the  
19 Legislature, for the purposes specified in subdivision (b) of  
20 Section 25173.6.

21 (d) The fee rates specified in subdivision (b) are the rates for the  
22 2003 calendar year. Beginning with the 2004 calendar year, and for  
23 each calendar year thereafter, the State Board of Equalization shall  
24 adjust the rates annually to reflect increases or decreases in the cost  
25 of living during the prior fiscal year, as measured by the Consumer  
26 Price Index issued by the Department of Industrial Relations or by  
27 a successor agency.

28 (e) Pursuant to paragraph (3) of subsection (c) of Section 104  
29 of the federal Comprehensive Environmental Response,  
30 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
31 Sec. 9604(e)(3)), the state is obligated to pay specified costs of  
32 removal and remedial actions carried out pursuant to the federal  
33 Comprehensive Environmental Response, Compensation, and  
34 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).  
35 The fee rates specified in subdivision (b) are intended to provide  
36 sufficient revenues to fund the purposes of subdivision (b) of  
37 Section 25173.6, including appropriations in any given fiscal year  
38 of three million three hundred thousand dollars (\$3,300,000) to  
39 fund the state's obligation pursuant to paragraph (3) of subsection  
40 (e) of Section 104 of the federal Comprehensive Environmental



1 ~~Response, Compensation, and Liability Act of 1980, as amended~~  
2 ~~(42 U.S.C. Sec. 9604(e)(3)). If the department determines that the~~  
3 ~~state's obligation under paragraph (3) of subsection (e) of Section~~  
4 ~~104 of the federal Comprehensive Environmental Response,~~  
5 ~~Compensation, and Liability Act of 1980, as amended (42 U.S.C.~~  
6 ~~Sec. 9604(e)(3)) will exceed three million three hundred thousand~~  
7 ~~dollars (\$3,300,000) in any fiscal year, the department shall report~~  
8 ~~that determination to the Legislature in the Governor's Budget. If,~~  
9 ~~as part of the Budget Act deliberations, the Legislature concurs~~  
10 ~~with the department's determination, the Legislature shall specify~~  
11 ~~in the annual Budget Act those changes to the base rate specified~~  
12 ~~in subdivision (b) that will increase revenues in the next calendar~~  
13 ~~year as necessary to fund the state's increased obligations.~~  
14 ~~However, the Legislature shall not specify a base rate in the annual~~  
15 ~~Budget Act that increase revenue in an amount greater than eight~~  
16 ~~million two hundred thousand dollars (\$8,200,000) above the~~  
17 ~~revenues provided by the base rate specified in subdivision (b).~~  
18 ~~Any changes in the rates approved by the Legislature in the annual~~  
19 ~~Budget Act pursuant to this subdivision shall have effect only on~~  
20 ~~the fee payment that is due and payable by the end of February in~~  
21 ~~the fiscal year for which that annual Budget Act is enacted.~~

22 ~~(f) This section does not apply to a nonprofit corporation~~  
23 ~~primarily engaged in the provision of residential social and~~  
24 ~~personal care for children, the aged, and special categories of~~  
25 ~~persons with some limits on their ability for self-care, as described~~  
26 ~~in SIC Code 8361 of the Standard Industrial Classification (SIC)~~  
27 ~~Manual published by the United States Office of Management and~~  
28 ~~Budget, 1987 edition.~~

29 ~~SEC. 2. Section 25205.16 of the Health and Safety Code is~~  
30 ~~amended to read:~~

31 ~~25205.16. (a) (1) The department may impose an annual~~  
32 ~~verification fee upon all generators, transporters, and facility~~  
33 ~~operators with 50 or more employees that possess a valid~~  
34 ~~identification number issued either by the department or by the~~  
35 ~~Environmental Protection Agency. The fee charged shall be one~~  
36 ~~hundred fifty dollars (\$150) for each generator, transporter, and~~  
37 ~~facility operator with 50 or more employees, but less than 75~~  
38 ~~employees; one hundred seventy five dollars (\$175) for each~~  
39 ~~generator, transporter, and facility operator with 75 or more~~  
40 ~~employees, but less than 100 employees; two hundred dollars~~



1 ~~(\$200) for each generator, transporter, and facility operator with~~  
2 ~~100 or more employees, but less than 250 employees; two hundred~~  
3 ~~twenty-five dollars (\$225) for each generator, transporter, and~~  
4 ~~facility operator with 250 or more employees, but less than 500~~  
5 ~~employees; two hundred fifty dollars (\$250) for each generator,~~  
6 ~~transporter, and facility operator with 500 or more employees.~~  
7 ~~However, no generator, transporter, or facility operator shall be~~  
8 ~~assessed fees pursuant to this section that exceed, in total, five~~  
9 ~~thousand dollars (\$5,000).~~

10 ~~(2) The generator, transporter, or facility operator subject to the~~  
11 ~~fee shall submit payment of the fee within 30 days from the date~~  
12 ~~of receiving a notice of assessment from the department. The~~  
13 ~~notice shall be sent once during each fiscal year to each holder of~~  
14 ~~a valid identification number. The fee imposed by this section shall~~  
15 ~~be deposited in the Hazardous Waste Control Account and be~~  
16 ~~available for expenditure, upon appropriation by the Legislature.~~  
17 ~~For purposes of this section, the number of employees employed~~  
18 ~~by a corporation is the number of persons employed in this state~~  
19 ~~for more than 500 hours during the calendar year preceding the~~  
20 ~~calendar year in which the fee is due.~~

21 ~~(b) The department shall establish an identification number~~  
22 ~~certification system to biennially verify the accuracy of~~  
23 ~~information related to generators, transporters, and facilities~~  
24 ~~authorized to treat, store, or dispose of hazardous waste. However,~~  
25 ~~if the number of identification numbers issued since the previous~~  
26 ~~certification exceeds 20 percent of the active identification~~  
27 ~~numbers, the department may implement an annual certification.~~  
28 ~~Each entity issued an identification number shall provide or verify~~  
29 ~~the information specified in paragraphs (1) to (9), inclusive, when~~  
30 ~~requested by the department. The system shall include the~~  
31 ~~provision or verification of all of the following information:~~

32 ~~(1) The name, mailing address, facsimile number, fictitious~~  
33 ~~business name, federal employer number, State Board of~~  
34 ~~Equalization identification number, SIC code, electronic mail~~  
35 ~~address, if available, and telephone number of the firm or~~  
36 ~~organization engaged in hazardous waste activities.~~

37 ~~(2) The name, mailing address, facsimile number, and~~  
38 ~~telephone number of the owner of the firm or organization.~~

39 ~~(3) The name, title, mailing address, facsimile number, and~~  
40 ~~telephone number of a contact person for the firm or organization.~~



- 1     ~~(4) The identification number assigned to the firm or~~
- 2     ~~organization.~~
- 3     ~~(5) The site location address or description associated with the~~
- 4     ~~firm or organization's identification number provided in~~
- 5     ~~paragraph (4).~~
- 6     ~~(6) The number of employees of the firm or organization.~~
- 7     ~~(7) If the firm or organization is a generator, a statement of~~
- 8     ~~whether the generator produces RCRA hazardous waste or~~
- 9     ~~non-RCRA hazardous waste.~~
- 10    ~~(8) An identification of any of the following hazardous waste~~
- 11    ~~activities in which the firm or organization is engaged:~~
- 12    ~~(A) Generation.~~
- 13    ~~(B) Transportation.~~
- 14    ~~(C) Onsite treatment, storage, or disposal.~~
- 15    ~~(9) The waste codes associated with the four largest hazardous~~
- 16    ~~waste streams, by volume, of the firm or organization. The federal~~
- 17    ~~waste code shall be verified for RCRA hazardous waste and the~~
- 18    ~~California waste code shall be verified for non-RCRA hazardous~~
- 19    ~~waste.~~
- 20    ~~(c) Any generator, transporter, and facility operator who fails~~
- 21    ~~to comply with this section, or who fails to provide information~~
- 22    ~~required by the department to verify the accuracy of hazardous~~
- 23    ~~waste activity data, shall be subject to suspension of any and all~~
- 24    ~~identification numbers assigned to the generator, transporter, or~~
- 25    ~~facility operator and to any other authorized enforcement action.~~
- 26    ~~SEC. 3.—No reimbursement is required by this act pursuant to~~
- 27    ~~Section 6 of Article XIII B of the California Constitution because~~
- 28    ~~the only costs that may be incurred by a local agency or school~~
- 29    ~~district will be incurred because this act creates a new crime or~~
- 30    ~~infraction, eliminates a crime or infraction, or changes the penalty~~
- 31    ~~for a crime or infraction, within the meaning of Section 17556 of~~
- 32    ~~the Government Code, or changes the definition of a crime within~~
- 33    ~~the meaning of Section 6 of Article XIII B of the California~~
- 34    ~~Constitution.~~

