

AMENDED IN SENATE JULY 12, 2004

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1353

Introduced by Assembly Member Matthews

February 21, 2003

~~An act to add Section 25150.7 to the Health and Safety Code, and to amend Section 13173 of the Water Code, relating to hazardous waste.~~
An act to add and repeal Section 25150.7 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1353, as amended, Matthews. Treated wood waste: disposal.

(1) Existing law regulates the control of hazardous waste, but exempts from the hazardous waste control laws, wood waste that is exempt from regulation under the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA), if the wood waste is disposed of in a municipal landfill that meets certain requirements imposed pursuant to the Porter-Cologne Water Quality Control Act for the classification of disposal sites, and the landfill meets other specified requirements. A violation of the state's hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime.

This bill would *define the term "treated wood" and would require treated wood waste, as defined, to be disposed of in either a class I*

hazardous waste landfill or in a composite-lined ~~portion~~ *unit* of a solid waste landfill that meets specified requirements. The bill would require any *solid waste* landfill accepting treated wood waste to meet certain requirements specified in the bill and to manage the treated wood waste in a specified manner. *The bill would authorize the department, in consultation with the California Integrated Waste Management Board and the State Water Resources Control Board, to adopt regulations specifying standards for the management of treated wood waste at solid waste landfills prior to, or in lieu of, disposal, and would provide that if treated wood waste is accepted by a solid waste landfill that manages and disposes of the treated wood waste in a specified manner, the treated wood waste shall be deemed to be a solid waste.*

The bill would, until January 1, 2007, exempt treated wood waste from the hazardous waste control laws, if ~~certain~~ *the requirements specified above* are met.

The bill would require the department, by July 1, 2005, to make and to develop a written notice describing the health hazards associated with treated wood waste and how to safely manage, handle, and dispose of treated wood waste. The bill would require each wholesaler and retailer in this state to provide this notice to each purchaser of treated wood and treated wood-like products. The bill would require the wood preserving industry, by July 1, 2005, to make specified information available to generators of treated wood waste. The bill would require the Department of Toxic Substances Control to adopt, by January 1, 2007, regulations establishing management standards for treated wood waste as an alternative to the requirements specified in the hazardous waste control laws.

The bill would require a person subject to the hazardous waste control laws to comply with the alternative standard specified in the regulations adopted by the department or with the requirements of the hazardous waste control laws.

The bill would provide that on January 1, 2005, all variances granted by the department before January 1, 2005, governing the management of treated wood waste are inoperative and have no further effect.

The bill would require the Director of Toxic Substances Control, by June 1, 2012, to submit a report to the Legislature that makes a determination regarding the successful compliance with, and implementation of, the requirements imposed by the bill. The bill would make the requirements imposed by the bill inoperative on June 1, 2012, and, would repeal them on January 1, 2013, unless a later enacted



statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

Since a violation of the regulations adopted by the department would be a crime, the bill would impose a state-mandated local program.

(2) *The bill would require the California Research Bureau, in consultation with the Department of Toxic Substances Control and the California Integrated Waste Management Board, to perform a study on the management of treated wood and treated wood waste and to submit the published findings of the study to the Legislature, the Director of Toxic Substances Control, and the California Integrated Waste Management Board by June 1, 2006. The bill would require the California Research Bureau to organize and appoint a review panel to assist in the study, which would be required to examine specified matters relating to treated wood waste.*

~~(2) The Porter-Cologne Water Quality Control Act requires the State Water Resources Control Board to classify wastes and disposal sites to ensure the protection of water quality. The state board is required to adopt standards and regulations for waste disposal sites. Existing law authorizes the state board, after consultation with the California Integrated Waste Management Board and the department, to adopt policies with regard to designated wastes, as defined.~~

~~This bill would revise the definition of “designated waste” to include treated wood waste that is a hazardous waste and that is disposed of in other than a class I hazardous waste disposal facility, in accordance with the requirements of the bill.~~

(3) 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 25150.7 is added to the Health and
- 2 Safety Code, to read:
- 3 25150.7. ~~(a) This section applies only to treated wood waste~~
- 4 ~~that is a hazardous waste, solely due to the presence of preservative~~



1 in the wood, and to which both of the following requirements
2 apply:

3 (1) The treated wood waste is not subject to regulation as a
4 hazardous waste under the federal act.

5 (2) Section 25143.1.5 does not apply to the treated wood waste.

6 (b) (1) Notwithstanding any other provision of law, but except
7 as provided in subdivision (c), treated wood waste shall be
8 disposed of in either a class I hazardous waste landfill, or in a
9 composite-lined portion of a solid waste landfill that meets all
10 requirements imposed by the state policy adopted pursuant to
11 Section 13140 of the Water Code and the regulations adopted
12 pursuant to Sections 13172 and 13173 of the Water Code and that
13 is authorized to accept the treated wood waste under waste
14 discharge requirements issued by the appropriate California
15 regional water quality control board pursuant to Division 7
16 (commencing with Section 13000) of the Water Code.

17 (2) Treated wood waste, when disposed of in other than a class
18 I hazardous waste landfill in accordance with this subdivision,
19 shall be disposed of as a designated waste, as defined in Section
20 13173 of the Water Code.

21 (3) A landfill accepting treated wood waste shall meet the
22 requirements of this subdivision and shall manage the treated
23 wood waste so as to prevent scavenging. Any management of the
24 treated wood waste by the landfill before disposal or instead of
25 disposal shall comply with the applicable requirements of this
26 chapter, except as otherwise provided pursuant to subdivision (c)
27 or the regulations adopted pursuant to subdivision (d).

28 (c) (1) Notwithstanding any other provision of law, treated
29 wood waste is exempt from the requirements of this chapter if all
30 of the following requirements are met:

31 (A) The treated wood waste is not disposed of, except as
32 allowed pursuant to subdivision (b).

33 (B) The treated wood waste is not burned.

34 (C) The treated wood waste is not recycled, reclaimed, or
35 reused, except in accordance with the applicable requirements of
36 this chapter and the regulations adopted pursuant to this chapter.

37 (2) The exemption provided by this subdivision shall remain in
38 effect until January 1, 2007, and as of that date is inoperative.

39 (d) (1) On or before January 1, 2007, the department shall
40 adopt, and may subsequently revise as necessary, regulations



1 ~~establishing management standards for treated wood waste as an~~
2 ~~alternative to the requirements specified in this chapter and the~~
3 ~~regulations adopted pursuant to this chapter.~~

4 ~~(2) The regulations adopted pursuant to this subdivision shall~~
5 ~~ensure both of the following:~~

6 ~~(A) Treated wood waste is properly stored, treated,~~
7 ~~transported, disposed of, and otherwise managed, in accordance~~
8 ~~with all applicable laws, so as to minimize releases of hazardous~~
9 ~~constituents to the environment, prevent scavenging, and prevent~~
10 ~~harmful exposure of people and animals to the treated wood waste.~~

11 ~~(B) Treated wood waste is not reused, with or without~~
12 ~~treatment, except for a purpose that is consistent with the approved~~
13 ~~uses of the preservative with which the wood has been treated.~~

14 ~~(3) This subdivision does not authorize the department to adopt~~
15 ~~a regulation that does one or more of the following:~~

16 ~~(A) Imposes a requirement as an addition to, rather than as an~~
17 ~~alternative to, one or more of the requirements of this chapter.~~

18 ~~(B) Supersedes subdivision (b) concerning the disposal of~~
19 ~~treated wood waste.~~

20 ~~(C) Supersedes any other provision of this chapter that~~
21 ~~provides a conditional or unconditional exclusion, exemption, or~~
22 ~~exception to a requirement of this chapter or the regulations~~
23 ~~adopted pursuant to this chapter, except the department may adopt~~
24 ~~a regulation pursuant to this subdivision that provides an~~
25 ~~alternative condition for a requirement specified in this chapter for~~
26 ~~an exclusion, exemption, or exception and that allows an affected~~
27 ~~person to choose between complying with the requirements~~
28 ~~specified in this chapter or complying with the alternative~~
29 ~~conditions set forth in the regulation.~~

30 ~~(e) (1) A person managing treated wood waste who is subject~~
31 ~~to a requirement of this chapter, including a regulation adopted~~
32 ~~pursuant to this chapter, shall comply with either the alternative~~
33 ~~standard specified in the regulations adopted pursuant to~~
34 ~~subdivision (d) or with the requirements of this chapter.~~

35 ~~(2) A person who is in compliance with the alternative standard~~
36 ~~specified in the regulations adopted pursuant to subdivision (d) is~~
37 ~~deemed to be in compliance with the requirement of this chapter~~
38 ~~for which the regulation is identified as being an alternative, and~~
39 ~~the department and any other entity authorized to enforce this~~



1 ~~chapter shall consider that person to be in compliance with that~~
2 ~~requirement of this chapter.~~

3 ~~(f) On January 1, 2005, all variances granted by the department~~
4 ~~before January 1, 2005, governing the management of treated~~
5 ~~wood waste are inoperative and have no further effect.~~

6 ~~SEC. 2.—Section 13173 of the Water Code is amended to read:~~
7 ~~13173. “Designated waste” means any of the following:~~

8 ~~(a) Hazardous waste that has been granted a variance from~~
9 ~~hazardous waste management requirements pursuant to Section~~
10 ~~25143 of the Health and Safety Code.~~

11 ~~(b) Treated wood waste that is a hazardous waste and that is~~
12 ~~disposed of in other than a class 1 hazardous waste disposal~~
13 ~~facility, in accordance with Section 25150.7 of the Health and~~
14 ~~Safety Code.~~

15 ~~(c) Nonhazardous waste that consists of, or contains, pollutants~~
16 ~~that, under ambient environmental conditions at a waste~~
17 ~~management unit, could be released in concentrations exceeding~~
18 ~~applicable water quality objectives or that could reasonably be~~
19 ~~expected to affect beneficial uses of the waters of the state as~~
20 ~~contained in the appropriate state water quality control plan.~~

21 *25150.7. (a) The Legislature finds and declares that this*
22 *section is intended to address the unique circumstances associated*
23 *with the generation and management of treated wood waste. The*
24 *Legislature further declares that this section shall not be construed*
25 *as setting a precedent applicable to the management, including*
26 *disposal, of other hazardous wastes.*

27 *(b) For purposes of this section, the following definitions shall*
28 *apply:*

29 *(1) “Treated wood” means wood that has been treated with a*
30 *chemical preservative for purposes of protecting the wood against*
31 *attacks from insects, microorganisms, fungi, and other*
32 *environmental conditions that can lead to decay of the wood and*
33 *the chemical preservative is registered pursuant to the Federal*
34 *Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136*
35 *and following).*

36 *(2) “Wood preserving industry” means business concerns that*
37 *manufacture or sell pressure treated wood products in the state.*

38 *(c) This section applies only to treated wood waste that is a*
39 *hazardous waste, solely due to the presence of a preservative in the*
40 *wood, and to which both of the following requirements apply:*



1 (1) *The treated wood waste is not subject to regulation as a*
2 *hazardous waste under the federal act.*

3 (2) *Section 25143.1.5 does not apply to the treated wood waste.*

4 (d) (1) *Notwithstanding Sections 25157.8, 25189.5, and*
5 *25201, treated wood waste shall be disposed of in either a class I*
6 *hazardous waste landfill, or in a composite-lined unit of a solid*
7 *waste landfill that meets all requirements imposed by the state*
8 *policy adopted pursuant to Section 13140 of the Water Code and*
9 *the regulations adopted pursuant to Sections 13172 and 13173 of*
10 *the Water Code and that was authorized prior to January 1, 2005,*
11 *to accept the treated wood waste as a designated waste, as defined*
12 *in Section 13173 of the Water Code, or is authorized, on or after*
13 *January 1, 2005, under waste discharge requirements issued by the*
14 *appropriate California regional water quality control board*
15 *pursuant to Division 7 (commencing with Section 13000) of the*
16 *Water Code.*

17 (2) *A solid waste landfill that accepts treated wood waste shall*
18 *comply with all of the following requirements:*

19 (A) *Manage the treated wood waste so as to prevent*
20 *scavenging.*

21 (B) *Prohibit the treated wood waste from being disposed of,*
22 *except as allowed pursuant to subdivision (d).*

23 (C) *Prohibit the treated wood waste from being burned,*
24 *recycled, reclaimed, or reused.*

25 (D) *Prohibit the treated wood waste from being stored for more*
26 *than 90 days and, when stored, require that it is protected from*
27 *run-on and run-off, and placed on a surface sufficiently*
28 *impervious to prevent contact with and any leaching to soil or*
29 *water.*

30 (E) *Prohibit treated wood waste from being mixed with other*
31 *hazardous waste prior to disposal.*

32 (F) *Require the treated wood waste to be handled consistent*
33 *with all applicable requirements of the California Occupational*
34 *Safety and Health Act of 1973 (Chapter 1 (commencing with*
35 *Section 6300) of Part 1 of Division 5 of the Labor Code), including*
36 *all rules, regulations, and orders relating to hazardous waste.*

37 (G) *Manage the treated wood waste at the solid waste landfill*
38 *prior to disposal, or in lieu of disposal, in compliance with the*
39 *regulations that may be adopted pursuant to paragraph (3).*



1 (H) Ensure that the unit of the landfill disposal facility in which
2 the treated wood waste is disposed has a leachate collection system
3 and a leachate and groundwater monitoring system that monitors
4 for the hazardous constituents contained in, or potentially
5 contained in, the treated wood waste, including, but not limited to,
6 inert ingredients in wood preservatives that represent more than 5
7 percent of the formulated wood treatment product.

8 (3) The department, in consultation with the California
9 Integrated Waste Management Board and the State Water
10 Resources Control Board, may adopt regulations specifying
11 standards for the management of treated wood waste at solid waste
12 landfills prior to, or in lieu of, disposal, including, but not limited
13 to, all of the following:

14 (A) The size reduction is conducted in a manner that prevents
15 the uncontrolled release of hazardous constituents to the
16 environment, and that conforms to applicable worker health and
17 safety requirements.

18 (B) All sawdust and other particles generated during size
19 reduction are captured and disposed of at the landfill disposal
20 facility as treated wood waste.

21 (C) All employees of the facility or program involved in the
22 acceptance, storage, transport, and other management of treated
23 wood waste are trained in the safe and legal management of
24 treated wood waste, including, but not limited to, procedures for
25 identifying and segregating treated wood waste.

26 (4) If treated wood waste is accepted by a solid waste landfill
27 that manages and disposes of the treated wood waste in
28 accordance with paragraphs (1) and (2), the treated wood waste
29 shall be deemed to be a solid waste for purposes of Section 40191
30 of the Public Resources Code.

31 (e) (1) Treated wood waste is exempt from the requirements of
32 this chapter if the treated wood waste is managed in accordance
33 with subdivision (d).

34 (2) The exemption provided by this subdivision shall remain in
35 effect until January 1, 2007, and as of that date is inoperative.

36 (f) (1) On or before July 1, 2005, the department shall develop,
37 in consultation with the wood preserving industry, the California
38 Integrated Waste Management Board, and the hazard evaluation
39 system and information service of the State Department of Health
40 Services, a written notice, in English and other languages,



1 *describing the health hazards associated with treated wood waste*
2 *and how to best manage, handle, and dispose of treated wood*
3 *waste. The department shall provide the notice to wholesalers and*
4 *retailers of treated wood and treated wood-like products used for*
5 *fencing, decking, retaining walls, landscaping, outdoor structures,*
6 *and similar uses.*

7 (2) *Each wholesaler and retailer of treated wood and treated*
8 *wood-like products in this state shall provide the notice developed*
9 *pursuant to paragraph (1) to each purchaser of treated wood and*
10 *treated wood-like products used for fencing, decking, retaining*
11 *walls, landscaping, outdoor structures, and similar uses.*

12 (3) *On or before July 1, 2005, the wood preserving industry*
13 *shall jointly and in consultation with the department, by July 1,*
14 *2005, make information available to generators of treated wood*
15 *waste, including fencing, decking and landscape contractors,*
16 *solid waste landfills, and transporters, that describes how to best*
17 *manage, handle, and dispose of treated wood waste, through the*
18 *use either of a toll-free telephone number, Internet Web site,*
19 *information labeled on the treated wood, information*
20 *accompanying the sale of the treated wood, or by mailing if the*
21 *department determines that mailing is feasible and other methods*
22 *of communication would not be as effective. The department may*
23 *provide guidance to the wood preserving industry, to the extent*
24 *resources permit.*

25 (g) (1) *On or before January 1, 2007, the department shall*
26 *adopt, and may subsequently revise as necessary, regulations*
27 *establishing management standards for treated wood waste as an*
28 *alternative to the requirements specified in this chapter and the*
29 *regulations adopted pursuant to this chapter.*

30 (2) *The regulations adopted pursuant to this subdivision shall*
31 *ensure both of the following:*

32 (A) *Treated wood waste is properly stored, treated,*
33 *transported, tracked, disposed of, and otherwise managed, in*
34 *accordance with all applicable laws, so as to prevent to the extent*
35 *practical, releases of hazardous constituents to the environment,*
36 *prevent scavenging, and prevent harmful exposure of people,*
37 *including workers and children, aquatic life, and animals to*
38 *hazardous chemical constituents of the treated wood waste.*

39 (B) *Treated wood waste is not reused, with or without*
40 *treatment, except for a purpose that is consistent with the approved*



1 use of the preservative with which the wood has been treated. For
2 purposes of this subparagraph, “approved uses” means a use
3 approved at the time the treated wood waste is reused.

4 (3) This subdivision does not authorize the department to adopt
5 a regulation that does one or more of the following:

6 (A) Imposes a requirement as an addition to, rather than as an
7 alternative to, one or more of the requirements of this chapter.

8 (B) Supersedes subdivision (d) concerning the disposal of
9 treated wood waste.

10 (C) Supersedes any other provision of this chapter that
11 provides a conditional or unconditional exclusion, exemption, or
12 exception to a requirement of this chapter or the regulations
13 adopted pursuant to this chapter, except the department may adopt
14 a regulation pursuant to this subdivision that provides an
15 alternative condition for a requirement specified in this chapter for
16 an exclusion, exemption, or exception and that allows an affected
17 person to choose between complying with the requirements
18 specified in this chapter or complying with the alternative
19 conditions set forth in the regulation.

20 (h) (1) A person managing treated wood waste who is subject
21 to a requirement of this chapter, including a regulation adopted
22 pursuant to this chapter, shall comply with either the alternative
23 standard specified in the regulations adopted pursuant to
24 subdivision (f) or with the requirements of this chapter.

25 (2) A person who is in compliance with the alternative standard
26 specified in the regulations adopted pursuant to subdivision (f) is
27 deemed to be in compliance with the requirement of this chapter
28 for which the regulation is identified as being an alternative, and
29 the department and any other entity authorized to enforce this
30 chapter shall consider that person to be in compliance with that
31 requirement of this chapter.

32 (i) On January 1, 2005, all variances granted by the
33 department before January 1, 2005, governing the management of
34 treated wood waste are inoperative and have no further effect.

35 (j) Nothing in this section may be construed to limit the
36 authority or responsibility of the department to adopt regulations
37 under any other provision of law.

38 (k) On or before June 1, 2012, the director shall submit a report
39 of the Legislature that makes a determination regarding the
40 successful compliance with, and implementation of, this section.



1 *(l) This section shall become inoperative on June 1, 2012, and,*
2 *as of January 1, 2013, is repealed, unless a later enacted statute,*
3 *that becomes operative on or before January 1, 2013, deletes or*
4 *extends the dates on which it becomes inoperative and is repealed.*

5 *SEC. 2. (a) On or before June 1, 2006, the California*
6 *Research Bureau, in consultation with the Department of Toxic*
7 *Substances Control and the California Integrated Waste*
8 *Management Board, shall perform a study, pursuant to this*
9 *section, on the management of treated wood and treated wood*
10 *waste under Section 25120.7 of the Health and Safety Code, and*
11 *shall submit the published findings of the study to the Legislature,*
12 *the Director of Toxic Substances Control, and the California*
13 *Integrated Waste Management Board.*

14 *(b) The California Research Bureau shall organize meetings of*
15 *a review panel appointed pursuant to subdivision (c) to assist in*
16 *the preparation for the appropriate content to be included in the*
17 *study required by this section.*

18 *(c) The California Research Bureau shall appoint to the review*
19 *panel a diverse group of professionals including, but not limited*
20 *to, representatives of all of the following:*

- 21 *(1) Occupational health experts.*
- 22 *(2) Environmental health directors.*
- 23 *(3) Manufacturers of treated wood.*
- 24 *(4) Waste disposal companies.*
- 25 *(5) Environmental organizations.*

26 *(d) The review panel shall examine all of the following areas*
27 *relating to treated wood waste:*

- 28 *(1) Projections of future disposal needs.*
- 29 *(2) Potential health impacts of treated products and wood*
30 *wastes.*
- 31 *(3) Bioremediation and extraction of metals and contaminants.*
- 32 *(4) Options for eliminating contaminants at the source,*
33 *including prohibiting the production of treated wood products.*
- 34 *(5) Any other area identified by the review panel.*

35 *(e) The panel shall review and, to the extent resources and*
36 *expertise permit, make findings on all of the following:*

- 37 *(1) Recommendations for a comprehensive plan regarding the*
38 *production, management, and disposal of treated wood products.*



1 (2) *Options for encouraging the use of commercially available*
2 *substitute materials posing a lesser hazard to public health and the*
3 *environment.*

4 (3) *Recommendations on limiting hazards for distinct*
5 *subpopulations, including workers employed in high-risk*
6 *occupations.*

7 (4) *Recommendations for the safe handling, managing, and*
8 *disposal of treated wood products and wastes.*

9 (5) *Any additional topical areas deemed appropriate by the*
10 *review panel.*

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.

