

ASSEMBLY BILL

No. 2021

Introduced by Assembly Member Chu

February 13, 2004

An act to amend Sections 25214.14 and 25124.15 of, and to amend the heading of Article 10.3 (commencing with Section 25214.11) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2021, as introduced, Chu. Hazardous waste: toxics.

(1) Existing law, the “Toxics in Packaging Prevention Act,” prohibits, on and after January 1, 2006, a manufacturer, importer, agent, or supplier, as defined, from offering for sale or for promotional purposes in this state a package or packaging component that includes specified regulated metals and prohibits, on and after January 1, 2006, a person from offering for sale or for promotional purposes in this state a product in a package that includes those intentionally introduced regulated metals. The act exempts from those requirements a package or a packaging component that meets specified conditions, and provides an exemption process from those requirements for a package or packaging component that has a controlled distribution and reuse, if the manufacturer or distributor submits information to the department that complies with specified requirements, including demonstrating that there is an environmental benefit of the controlled distribution and reuse. The act requires a manufacturer or distributor that requests specified exemptions to enter into a written agreement with the department, pursuant to which the manufacturer or distributor is required to reimburse the department for costs incurred by the

department in processing or responding to the request. The act requires all reimbursements received by the department to be deposited in the Hazardous Waste Control Account. A violation of the hazardous waste control laws, including the act, is a crime.

This bill would revise the exemption process under the act to instead provide that a package or packaging component qualifies for an exemption only if the manufacturer or distributor prepares, retains, and annually updates documentation containing specified information for that package or packaging component. The bill would require the manufacturer or distributor to prepare, retain, and update certain documentation based upon the exemption for which the package or packaging component qualifies. The bill would also revise various conditions under which a package or packaging component qualifies for an exemption.

This bill would also make technical nonsubstantive changes to those provisions.

Because a violation of the bill’s requirements would be a crime, 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.

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. The heading of Article 10.3 (commencing with
2 Section 25214.11) of Chapter 6.5 of Division 20 of the Health and
3 Safety Code is amended to read:

4
5 Article ~~10.3~~ 10.4. Toxics in Packaging Prevention Act

6
7 SEC. 2. Section 25214.14 of the Health and Safety Code is
8 amended to read:

9 25214.14. A package or a packaging component is exempt
10 from the requirements of Section 25214.13, and shall be deemed
11 in compliance with this article, if the *manufacturer or supplier*



1 *complies with the applicable documentation requirements*
2 *specified in Section 25214.15 and the package or packaging*
3 *component meets any of the following conditions:*

4 (a) The package or packaging component is marked with a code
5 indicating a date of manufacture prior to January 1, 2006.

6 (b) A regulated metal has been added to the package or
7 packaging component in the manufacturing, forming, printing, or
8 distribution process, to comply with the health or safety
9 requirements of a federal or state law, ~~and the manufacturer or~~
10 ~~supplier maintains documentation that fully and clearly~~
11 ~~demonstrates that the package or packaging component is eligible~~
12 ~~for this exemption.~~

13 (c) (1) The package or packaging component *contains no*
14 *intentionally introduced regulated metals, but exceeds the*
15 *applicable maximum concentration level set forth in subdivision*
16 *(c) of Section 25214.13 only because of the addition of a recycled*
17 *material.*

18 (2) This subdivision, and all exemptions provided pursuant to
19 it, expire on January 1, 2010.

20 (d) (1) A regulated metal, ~~for which there is no feasible~~
21 ~~alternative that may be used in the package or packaging~~
22 ~~component,~~ has been added to the package or packaging
23 component in the manufacturing, forming, printing, or
24 distribution process, ~~and the manufacturer or supplier maintains~~
25 ~~documentation that fully and clearly demonstrates that the~~
26 ~~package or packaging component is eligible for this exemption for~~
27 ~~a use for which there is no feasible alternative.~~

28 (2) For purposes of this subdivision, “*a use for which there is*
29 *no feasible alternative that may be used*” means ~~that the use of the~~
30 *a use, other than for purposes of marketing, for which a regulated*
31 *metal is essential to the protection, safe handling, or function, of*
32 *the package’s contents, and technical constraints preclude the*
33 *substitution of other materials. This does not include the use of a*
34 *regulated metal for marketing purposes.*

35 (e) (1) ~~A~~ The package or packaging component ~~that~~ is reused
36 *and contains no intentionally introduced regulated metals, but*
37 *exceeds the ~~summed—incidental~~ applicable maximum*
38 *concentration level of ~~regulated metal~~ set forth in subdivision (c)*
39 *of Section 25214.13, if and all of the following apply:*



1 (A) The product being conveyed by the package, *the package*,
2 or packaging component is otherwise regulated under a federal or
3 state health or safety requirement.

4 (B) The transportation of the packaged product is regulated
5 under federal or state transportation requirements.

6 (C) The disposal of the package is otherwise performed
7 according to the requirements of this chapter or Chapter 8
8 (commencing with Section 114960) of Part 9 of Division 104.

9 (2) This subdivision, and all exemptions provided pursuant to
10 it, expire on January 1, 2010.

11 ~~(f) (1) A manufacturer or distributor of a package or~~
12 ~~packaging component has obtained an exemption, pursuant to the~~
13 ~~process described in paragraph (2), for use of a regulated metal that~~
14 ~~exceeds the summed incidental concentration level set forth in~~
15 ~~subdivision (c) of Section 25214.13 in a package or packaging~~
16 ~~component that~~ *The package or packaging component has a*
17 *controlled distribution and reuse and contains no intentionally*
18 *introduced regulated metals, but exceeds the applicable maximum*
19 *concentration level set forth in subdivision (c) of Section*
20 *25214.13.*

21 ~~(2) The department shall grant an exemption under paragraph~~
22 ~~(1) from Section 25214.13 for two years only if both of the~~
23 ~~following conditions are met:~~

24 ~~(A) The manufacturer or distributor of the package or~~
25 ~~packaging component submits supporting information that~~
26 ~~complies with the requirements set forth in paragraph (3) with the~~
27 ~~request for an initial and a renewed exemption.~~

28 ~~(B) The supporting information demonstrates that the package~~
29 ~~or packaging component is eligible for the exemption.~~

30 ~~(3) The supporting information that a manufacturer or~~
31 ~~distributor shall submit to the department, before the department~~
32 ~~may grant an exemption pursuant to this subdivision, shall include~~
33 ~~all of the following:~~

34 ~~(A) Information that demonstrates that the environmental~~
35 ~~benefit of the controlled distribution and reuse of the package or~~
36 ~~packaging component is significantly greater, as compared to the~~
37 ~~same package or packaging component manufactured in~~
38 ~~compliance with the maximum summed incidental concentration~~
39 ~~level of regulated metal set forth in subdivision (c) of Section~~
40 ~~25214.13.~~



1 ~~(B) A means of identifying, in a permanent and visible manner,~~
2 ~~any reusable package or packaging component, containing a~~
3 ~~regulated metal for which the exemption is sought.~~

4 ~~(C) A method of regulatory and financial accountability, so that~~
5 ~~a specified percentage of the reusable packages or packaging~~
6 ~~components, manufactured and distributed to other persons are not~~
7 ~~discarded by those persons after use, but are returned to the~~
8 ~~manufacturer or designee.~~

9 ~~(D) A system of inventory and record maintenance to account~~
10 ~~for reusable packages or packaging components, placed in, and~~
11 ~~removed from, service.~~

12 ~~(E) A means of transforming returned packages or packaging~~
13 ~~components, that are no longer reusable into recycled materials for~~
14 ~~manufacturing, or a means of collecting and managing returned~~
15 ~~packages or packaging components as a waste in accordance with~~
16 ~~federal and state laws.~~

17 ~~(F) A system of annually reporting to the department any~~
18 ~~changes to the system and changes in designees.~~

19 ~~(4) This subdivision, and all exemptions provided pursuant to~~
20 ~~it, expire on January 1, 2010.~~

21 (g) (1) ~~A~~ *The packaging or packaging component is a glass or*
22 *ceramic package or packaging component that has a vitrified*
23 *label, and that, when tested in accordance with the Waste*
24 *Extraction Test, described in Appendix II of Chapter 11*
25 *(commencing with Section 66261.1) of Division 4.5 of Title 22 of*
26 *the California Code of Regulations, and does not exceed 1.0 ppm*
27 *for cadmium, 5.0 ppm for hexavalent chromium, or 5.0 ppm for*
28 *lead. A glass or ceramic package or packaging component*
29 *containing mercury is not exempted pursuant to this subdivision.*

30 (2) This subdivision, and all exemptions provided pursuant to
31 it, expire on January 1, 2010.

32 SEC. 3. Section 25214.15 of the Health and Safety Code is
33 amended to read:

34 25214.15. (a) *A package or packaging component qualifies*
35 *for an exemption pursuant to Section 25214.14 only if the*
36 *manufacturer or distributor ~~that requests an exemption pursuant~~*
37 *to subdivision (b), (d), or (f) of Section 25214.14 shall enter into*
38 *a written agreement with the department pursuant to which that*
39 *manufacturer or distributor shall reimburse the department,*
40 *pursuant to Article 9.2 (commencing with Section 25206.1), for*



1 costs incurred by the department in processing or responding to the
2 request.

3 ~~(b) The department shall deposit all reimbursements received~~
4 ~~pursuant to this section in the Hazardous Waste Control Account~~
5 ~~for appropriation in accordance with Section 25174. prepares,~~
6 *retains and annually updates documentation containing all of the*
7 *following information for that package or packaging component:*

8 *(1) A statement that the documentation applies to an exemption*
9 *from the requirements of Section 25214.13.*

10 *(2) The name, position, and contact information for the person*
11 *who is the manufacturer's or supplier's contact person on all*
12 *matters concerning the exemption.*

13 *(3) An identification of the exemption and a reference to the*
14 *applicable subdivision in Section 25214.14 setting forth the*
15 *conditions for the exemption.*

16 *(4) A description of the type of package or packaging*
17 *component to which the exemption applies.*

18 *(5) Identification of the type and concentration of the regulated*
19 *metal or metals present in the package or packaging component,*
20 *and a description of the testing methods used to determine the*
21 *concentration.*

22 *(6) An explanation of the reason for the exemption.*

23 *(7) Supporting documentation that fully and clearly*
24 *demonstrates that the package or packaging component is eligible*
25 *for the exemption.*

26 *(8) The documentation listed in subdivisions (b), (c), (d), (e),*
27 *(f), (g), or (h), whichever is applicable for the exemption.*

28 *(b) If an exemption is being claimed under subdivision (a) of*
29 *Section 25214.14, the manufacturer and supplier shall prepare,*
30 *retain, and annually update documentation containing all of the*
31 *following information for the package or packaging component to*
32 *which the exemption applies:*

33 *(1) Date of manufacture.*

34 *(2) Estimated time needed to exhaust current inventory.*

35 *(3) Alternative package or packaging component that meets*
36 *the requirements of Section 25214.13.*

37 *(c) If an exemption is being claimed under subdivision (b) of*
38 *Section 25214.14, the manufacturer and supplier shall prepare,*
39 *retain, and annually update documentation that contains all of the*
40 *following information for each regulated metal intentionally*



1 introduced in the package or packaging component to which the
2 exemption applies:

3 (1) Identification of the specific federal or state law requiring
4 the addition of the regulated metal to the package or packaging
5 component.

6 (2) Detailed information that fully and clearly demonstrates
7 that the addition of the regulated metal to the package or
8 packaging component is necessary to comply with the law
9 identified pursuant to paragraph (1).

10 (3) A description of past, current, and planned future efforts to
11 seek or develop alternatives to eliminate the use of the regulated
12 metal in the package or packaging component.

13 (4) A description of all alternative measures that have been
14 considered, and, for each alternative, an explanation as to why the
15 alternative is not satisfactory for purposes of achieving
16 compliance with the law identified pursuant to paragraph (1).

17 (d) If an exemption is being claimed under subdivision (c) of
18 Section 25214.14, the manufacturer and supplier shall prepare,
19 retain, and annually update documentation containing all of the
20 following information for the package or packaging component to
21 which the exemption applies:

22 (1) The type and percentage of recycled material or materials
23 added to the package or packaging component.

24 (2) The type and concentration of each regulated metal
25 contained in each recycled material added to the package or
26 packaging component.

27 (3) Efforts to minimize or eliminate the regulated metals in the
28 package or packaging component.

29 (4) A description of past, current, and planned future efforts to
30 seek or develop alternatives to minimize or eliminate the use of the
31 regulated metal in the package or packaging component.

32 (e) If an exemption is being claimed under subdivision (d) of
33 Section 25214.14, the manufacturer and supplier shall prepare,
34 retain, and annually update documentation containing all of the
35 following information for each regulated metal intentionally
36 introduced into the package or packaging component to which the
37 exemption applies:

38 (1) Detailed information and evidence that fully and clearly
39 demonstrates how the regulated metal contributes to, and is



1 essential to, the protection, safe handling, or functioning of the
2 package's contents.

3 (2) A description of past, current, and planned future efforts to
4 seek or develop alternatives to minimize or eliminate the use of the
5 regulated metal in the package or packaging component.

6 (3) A description of all alternative measures that have been
7 considered, and, for each alternative, an explanation as to the
8 technical constraints that preclude substitution of the alternative
9 for the use of the regulated metal.

10 (4) Documentation that the regulated metal is not being used
11 for the purposes of marketing.

12 (f) If an exemption is being claimed under subdivision (e) of
13 Section 25214.14, the manufacturer and supplier shall prepare,
14 retain, and annually update documentation containing all of the
15 following information for the package or packaging component to
16 which the exemption applies:

17 (1) The percentage of reused materials.

18 (2) Identification of the federal or state health or safety law
19 regulating the product being conveyed by the package or the
20 packaging component.

21 (3) Identification of the federal or state transportation law
22 regulating the transportation of the packaged product.

23 (4) Information demonstrating that the package is disposed of
24 in accordance with the requirements of this chapter or Chapter 8
25 (commencing with Section 114960) of Part 9 of Division 104.

26 (5) A description of past, current, and planned future efforts to
27 seek or develop alternatives to minimize or eliminate the use of the
28 regulated metal in the package or packaging component.

29 (g) If an exemption is being claimed under subdivision (f) of
30 Section 25214.14, the manufacturer and supplier shall prepare,
31 retain, and annually update documentation containing all of the
32 following information for the package or packaging component to
33 which the exemption applies:

34 (1) The percentage of reused materials.

35 (2) Information and evidence that demonstrates that the
36 environmental benefit of the controlled distribution and reuse of
37 the package or packaging component is significantly greater, as
38 compared to the same package or packaging component
39 manufactured in compliance with the applicable maximum



1 concentration level set forth in subdivision (c) of Section
2 25214.13.

3 (3) A means of identifying, in a permanent and visible manner,
4 any reusable package or packaging component containing a
5 regulated metal for which the exemption is sought.

6 (4) A method of regulatory and financial accountability, so that
7 a specified percentage of the reusable packages or packaging
8 components that are manufactured and distributed to other
9 persons are not discarded by those persons after use, but are
10 returned to the manufacturer or identified designees.

11 (5) A system of inventory and record maintenance to account
12 for reusable packages or packaging components placed in, and
13 removed from, service.

14 (6) A means of transforming returned packages or packaging
15 components that are no longer reusable into recycled materials for
16 manufacturing, or a means of collecting and managing returned
17 packages or packaging components as waste in accordance with
18 applicable federal and state law.

19 (7) A description of past, current, and planned future efforts to
20 seek or develop alternatives to minimize or eliminate the use of the
21 regulated metal in the package or packaging component.

22 (h) If an exemption is being claimed under subdivision (g) of
23 Section 25214.14, the manufacturer and supplier shall prepare,
24 retain, and annually update the following documentation for the
25 package or packaging component to which the exemption applies:

26 (1) Applicable test data.

27 (2) A description of past, current, and planned future efforts to
28 seek or develop alternatives to minimize or eliminate the use of the
29 regulated metal in the package or packaging component.

30 SEC. 4. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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