

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2277

Introduced by Assembly Member Dymally

February 19, 2004

~~An act to add and repeal Section 42176 of the Public Resources Code, relating to solid waste.~~ *An act to amend Section 25211 of, and to add Sections 25211.1, 25211.2, 25211.3, and 25211.4 to, the Health and Safety Code, and to amend Sections 42167 and 42175 of the Public Resources Code, relating to hazardous waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2277, as amended, Dymally. ~~Appliance Recycling Working Group~~ *Hazardous waste.*

Under existing law, the California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, materials that require special handling, as defined, are required to be removed from major appliances and vehicles in which they are contained prior to crushing for transport or transferring to a baler or shredder for recycling. Existing law requires any hazardous material that becomes a hazardous waste when released or removed from a major appliance and any mercury-containing motor vehicle light switch that becomes a hazardous waste when removed from any vehicle to be managed pursuant to specified hazardous waste control requirements.

~~This bill would require the Secretary for Environmental Protection to establish, by February 1, 2005, an appliance recycling working group, comprised of representatives of the California Integrated Waste Management Board, the Department of Toxic Substances Control, and the State Water Resources Control Board, and interested stakeholders, to undertake specified analysis, and make specified determinations and recommendations, regarding the removal of materials that require special handling from major appliances. The bill would require the Secretary for Environmental Protection, by December 1, 2005, to report to the Legislature on the findings and recommendations of the working group. The bill would make findings and declarations relating to the removal of materials that require special handling from major appliances. The bill would provide that its provisions would remain in effect only until January 1, 2006, and as of that date would be repealed.~~

Under existing law, a violation of hazardous waste management requirements is a crime.

This bill would change the definition of “materials that require special handling” and would require those materials to be removed from major appliances and vehicles in which they are contained before the appliance or vehicle is crushed, baled, shredded, or sawed or sheared apart, or otherwise processed in a manner that could result in the release or prevent the removal of materials that require special handling.

The bill would require the Department of Toxic Substances Control, by July 1, 2005, to adopt emergency regulations for the requirements and procedures for obtaining, suspending, and revoking an appliance recycler certificate and imposing penalties related to the removal of hazardous wastes from appliances. The bill would require the department, by October 1, 2005, to establish a process for certifying appliance recyclers, and would require an appliance recycler to apply for certification, as specified. The bill would require, before a certificate may be granted, the certified uniform program agency in whose jurisdiction the applicant is located inspect the appliance recycling facility, as specified. By imposing new duties on a certified uniform program agency, the bill would impose a state-mandated local program.

The bill would prohibit, on and after January 1, 2006, a person, other than a certified appliance recycler, as defined, from taking specified actions, with respect to materials that require special handling and major appliances.



The bill would require a certified appliance recycler to submit a specified report to the department quarterly.

The bill would define terms for these purposes.

By imposing new hazardous waste management requirements, the violation of which would be a crime, the bill would impose a state-mandated local program.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

- 1 ~~SECTION 1.—The Legislature finds and declares all of the~~
- 2 *SECTION 1. The Legislature finds and declares all of the*
- 3 *following:*
- 4 *(a) Chapter 3.5 (commencing with Section 42160) of Part 3 of*
- 5 *Division 30 of the Public Resources Code was enacted in 1991 to*
- 6 *divert large metallic discards, including major appliances and*
- 7 *vehicles, from landfills and to ensure that hazardous materials,*
- 8 *defined as “materials that require special handling,” are removed*
- 9 *from metallic discards before they are crushed or shredded for*
- 10 *metals recycling.*
- 11 *(b) A May 2004 report by the California Research Bureau,*
- 12 *“Appliance Recycling and Materials Requiring Special Handling:*
- 13 *Improving the Effectiveness of the Metallic Discards Act,” finds*
- 14 *that “there are likely widespread violations” of the requirement to*
- 15 *remove materials that require special handling from appliances,*



1 *and that compliance is probably weakest for removal of mercury*
2 *switches and thermostats and PCB capacitors.*

3 *(c) The report finds that there is strong circumstantial evidence*
4 *that violations of Chapter 3.5 (commencing with Section 42160)*
5 *of Part 3 of Division 30 of the Public Resources Code lead to the*
6 *release of harmful substances into the environment. The failure to*
7 *remove hazardous materials from appliances before they are*
8 *crushed or shredded for metals recycling results in the combustion*
9 *of mercury, PCBs, and other hazardous materials in thermal*
10 *combustion units and the release of these contaminants to land,*
11 *water, and air.*

12 *(d) The report also finds that there are strong incentives for*
13 *appliance recyclers not to comply with the law, including a lack of*
14 *inspection and enforcement at appliance recycling facilities and*
15 *an inability of enforcement agencies to know which facilities are*
16 *processing appliances for metals recycling. The report*
17 *recommends that accountability under the act be improved by*
18 *requiring appliance processors to be licensed and requiring*
19 *shredders only to accept appliances from licensed parties that*
20 *certify that materials that require special handling have been*
21 *removed.*

22 *SEC. 2. Section 25211 of the Health and Safety Code is*
23 *amended to read:*

24 *25211. For purposes of this article, the following terms have*
25 *the following meaning:*

26 *(a) "Certified appliance recycler" means a person or entity*
27 *engaged in the business of removing and properly managing*
28 *materials that require special handling from discarded major*
29 *appliances, and who is certified pursuant to Section 25211.4.*

30 *(b) "Local agency" means a local health officer or other public*
31 *officer authorized pursuant to Article 8 (commencing with Section*
32 *25180), including, when applicable, a certified unified program*
33 *agency (CUPA) or a unified program agency within the*
34 *jurisdiction of a CUPA.*

35 *(c) "Major appliance" has the same meaning as defined in*
36 *Section 42166 of the Public Resources Code.*

37 ~~*(b)*~~

38 *(d) "Materials that require special handling" has the same*
39 *meaning as defined in Section 42167 of the Public Resources*
40 *Code.*



1 (e) “Scrap recycling facility” means a facility where
2 machinery and equipment are used for processing and
3 manufacturing scrap metal into prepared grades and whose
4 principal product is scrap iron or nonferrous metallic scrap for
5 sale for remelting purposes. A scrap recycling facility includes, but
6 is not limited to, a feeder yard, a metal shredding facility, a metal
7 crusher, and a metal baler.

8 SEC. 3. Section 25211.1 is added to the Health and Safety
9 Code, to read:

10 25211.1. On and after January 1, 2006, no person other than
11 a certified appliance recycler shall do either of the following:

12 (a) Remove materials that require special handling from major
13 appliances pursuant to Section 42175 of the Public Resources
14 Code.

15 (b) Transport, deliver, or sell discarded major appliances to a
16 scrap recycling facility, except as provided in subdivisions (b) and
17 (c) of Section 25211.2.

18 SEC. 4. Section 25211.2 is added to the Health and Safety
19 Code, to read:

20 25211.2. (a) On and after January 1, 2006, except as
21 provided in subdivisions (b) and (c), a person who transports,
22 delivers, or sells discarded major appliances to a scrap recycling
23 facility shall provide evidence that he or she is a certified
24 appliance recycler and shall certify, on a form prepared by the
25 department and provided to the facility at the time of the
26 transaction, that all materials that require special handling have
27 been removed from the appliances pursuant to Section 42175 of the
28 Public Resources Code. Information on the form shall include, but
29 not be limited to, the appliance recycler certificate number, the
30 appliance recycler’s hazardous waste generator identification
31 number, the number and types of appliances included in the
32 shipment, and the facilities to which the materials that require
33 special handling that were removed from the appliances were sent
34 or are to be sent.

35 (b) A person who is not a certified appliance recycler may
36 transport, deliver, or sell discarded major appliances to a scrap
37 recycling facility only if either of the following conditions are met:

38 (1) (A) The appliances have not been crushed, baled,
39 shredded, sawed or sheared apart, or otherwise processed in such



1 a manner that could result in the release, or prevent the removal,
2 of materials that require special handling.

3 (B) The scrap recycling facility provides the person with
4 written documentation that the facility is a certified appliance
5 recycler. The document shall include the facility's appliance
6 recycler certificate number and hazardous waste generator
7 identification number.

8 (2)(A) The appliances have been crushed, baled, shredded, or
9 sawed or sheared apart.

10 (B) The person provides the scrap recycling facility written
11 evidence from a certified appliance recycler, as required in
12 subdivision (a), that all materials that require special handling
13 were removed from the appliances pursuant to Section 42175 of the
14 Public Resources Code before the person crushed, baled,
15 shredded, or sawed or sheared apart the appliances.

16 SEC. 5. Section 25211.3 is added to the Health and Safety
17 Code, to read:

18 25211.3. A certified appliance recycler shall submit to the
19 department, on a quarterly basis as determined by the department,
20 a record of all materials that required special handling that it
21 removed from major appliances during the previous quarter. The
22 record shall include, but not be limited to, all of the following
23 information:

24 (a) The amount, by volume or weight or both, as determined by
25 the department, of each material that required special handling.

26 (b) The method used by the appliance recycler to recycle,
27 dispose of, or otherwise manage each material that required
28 special handling, including the name and address of the facility to
29 which each material was sent.

30 SEC. 6. Section 25211.4 is added to the Health and Safety
31 Code to read:

32 25211.4. (a) On or before July 1, 2005, the department shall
33 adopt emergency regulations setting forth the requirements and
34 the procedures for obtaining, suspending, and revoking an
35 appliance recycler certificate, denying an application for an
36 appliance recycler certificate, and imposing civil or criminal
37 penalties for violations of any provision of this article. The
38 regulations may authorize the collection of a fee to cover the cost
39 of administering appliance recycler certificates, consistent with



1 *the cost reimbursement provisions of Article 9.2 (commencing with*
2 *Section 25206.1).*

3 *(b) The department, on or before October 1, 2005, shall*
4 *establish a process whereby an appliance recycler may be certified*
5 *by the department, or by a local agency if authorized by*
6 *regulations adopted pursuant to subdivision (a). The purpose of*
7 *the certification shall be to allow an appliance recycler to*
8 *demonstrate that its personnel, training, equipment, and capacity*
9 *are adequate to remove and properly manage materials that*
10 *require special handling in compliance with this article and*
11 *Section 42175 of the Public Resources Code.*

12 *(c) An appliance recycler shall apply for an appliance recycler*
13 *certificate on a form approved by the department. The department*
14 *shall prescribe the information required of the applicant, and the*
15 *applicant shall provide that information under penalty of perjury.*
16 *In addition to any other information required to be submitted, the*
17 *applicant shall furnish all of the following information on any*
18 *application for a new or renewed certificate:*

19 *(1) The business name under which the appliance recycler*
20 *operates, and the business owner's name, address, and telephone*
21 *number.*

22 *(2) A hazardous waste generator identification number issued*
23 *by the department pursuant to this chapter.*

24 *(3) A statement indicating that the applicant has either filed an*
25 *application for a storm water permit or is not required to obtain*
26 *a storm water permit.*

27 *(4) A statement indicating that the applicant has either filed a*
28 *hazardous materials business plan or is not required to file the*
29 *plan.*

30 *(5) The tax identification number assigned by the Franchise*
31 *Tax Board.*

32 *(6) A copy of a business license and any conditional use permits*
33 *issues by the appropriate city or county.*

34 *(7) A description of the ability of the applicant to properly*
35 *remove and manage all materials that require special handling,*
36 *including but not limited to, a technical description of all*
37 *equipment used in removing and managing the materials and the*
38 *training provided to personnel engaged in the removal and*
39 *managing of the materials.*



1 (d) Before an appliance recycling certificate may be granted,
2 the certified uniform program agency in whose jurisdiction the
3 applicant is located shall inspect the appliance recycling facility
4 to determine whether the recycler is capable of properly removing
5 and managing materials that require special handling from major
6 appliances. In making the determination, the department or local
7 agency shall consider various factors, including, but not limited
8 to, the working condition of equipment used to remove the
9 materials, the technical ability of employees of the business to
10 operate the equipment proficiently, and in the case of an existing
11 appliance recycler, the applicant's compliance with existing
12 applicable laws. An appliance recycling certificate shall not be
13 granted unless the inspecting agency determines the applicant is
14 capable of properly removing and managing materials that require
15 special handling in compliance with the requirements of the
16 chapter.

17 SEC. 7. Section 42167 of the Public Resources Code is
18 amended to read:

19 42167. "Materials that require special handling" means all of
20 the following:

21 (a) Sodium azide canisters in unspent airbags that are
22 determined to be hazardous by federal and state law or regulation.

23 (b) Encapsulated polychlorinated biphenyls (PCBs),
24 Di(2-Ethylhexylphthalate) (DEHP), and metal encased
25 capacitors, in major appliances.

26 (c) Chlorofluorocarbons (CFCs), hydrochlorofluorocarbons
27 (HCFCs), and other non-CFC replacement refrigerants, injected
28 in air-conditioning/refrigeration units.

29 (d) Used oil, as defined in subparagraph (A) of paragraph (1)
30 of subdivision (a) of Section 25250.1 of the Health and Safety
31 Code, in major appliances. Materials described in subparagraph
32 (B) of paragraph (1) of subdivision (a) of Section 25250.1 of the
33 Health and Safety Code are not excluded from the definition of
34 used oil for the purposes of this section.

35 (e) Mercury found in switches and temperature control devices
36 in major appliances.

37 (f) Any other material that, when removed from a major
38 appliance, is a hazardous waste regulated pursuant to Chapter 6.5
39 (commencing with Section 25100) of Division 20 of the Health and
40 Safety Code.



1 SEC. 8. Section 42175 of the Public Resources Code is
2 amended to read:

3 42175. ~~Materials~~ *In order to prevent an illegal release of a*
4 *hazardous waste, materials that require special handling shall be*
5 *removed from major appliances and vehicles in which they are*
6 *contained prior to ~~crushing for transport or transferring to a baler~~*
7 *~~or shredder for recycling~~ the appliance or vehicle being crushed,*
8 *baled, shredded, or sawed or sheared apart, or otherwise*
9 *processed in a manner that could result in the release or prevent*
10 *the removal of materials that require special handling.*

11 SEC. 9. *No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution for*
13 *certain costs that may be incurred by a local agency or school*
14 *district because in that regard 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.*

20 *However, notwithstanding Section 17610 of the Government*
21 *Code, if the Commission on State Mandates determines that this*
22 *act contains other costs mandated by the state, reimbursement to*
23 *local agencies and school districts for those costs shall be made*
24 *pursuant to Part 7 (commencing with Section 17500) of Division*
25 *4 of Title 2 of the Government Code. If the statewide cost of the*
26 *claim for reimbursement does not exceed one million dollars*
27 *(\$1,000,000), reimbursement shall be made from the State*
28 *Mandates Claims Fund.*

29 ~~following:~~

30 ~~(a) Chapter 3.5 (commencing with Section 42160) of Part 3 of~~
31 ~~Division 30 of the Public Resources Code prohibits major~~
32 ~~appliances from being crushed for transport or baled or shredded~~
33 ~~for recycling, until specified hazardous materials, including~~
34 ~~mercury, are removed.~~

35 ~~(b) Based on appliance industry estimates, more than~~
36 ~~4,000,000 major appliances were discarded in California in 2002.~~
37 ~~These appliances contained an estimated 70,000 pounds of~~
38 ~~mercury-containing devices, 1,600,000 pounds of CFC or HCFC~~
39 ~~refrigerants, 226,000 gallons of used oil, and 270,000 pounds of~~
40 ~~PCB-containing devices. Unless they are properly removed from~~



1 appliances before the appliances are crushed, baled, or shredded,
2 these hazardous materials are being illegally released into the
3 environment.

4 (e) Current law does not provide a readily available means for
5 the state to determine whether these hazardous materials are being
6 properly removed and managed for safe recycling or disposal. It
7 is in the people of the State of California's interest to determine
8 whether hazardous materials that, if illegally released into the
9 environment, can pollute soil, air, and water, are being managed
10 in accordance with state law.

11 SEC. 2. Section 42176 is added to the Public Resources Code,
12 to read:

13 42176. (a) On or before February 1, 2005, the Secretary for
14 Environmental Protection shall establish an appliance recycling
15 working group, comprised of representatives of the board, the
16 Department of Toxic Substances Control, and the State Water
17 Resources Control Board, and interested stakeholders. The
18 working group shall do all of the following:

19 (1) Analyze existing practices of state and local agencies to
20 implement Section 42175 and Chapter 23 (commencing with
21 Section 66273.1) of Division 4.5 of Title 22 of the California Code
22 of Regulations as it pertains to the removal of mercury,
23 mercury-containing products, and other materials that require
24 special handling, from major appliances.

25 (2) Determine the amount of materials that require special
26 handling that are being removed from major appliances and
27 properly managed after removal as required by law.

28 (3) Determine which state and local agencies are responsible
29 for inspecting facilities and operators involved in processing
30 discarded appliances and whether adequate inspection of those
31 facilities and operators is occurring.

32 (4) Determine the extent to which enforcement actions have
33 been taken for violations of Section 42175.

34 (5) Identify any gaps or weaknesses in the current regulatory,
35 structure that impede successful inspection and enforcement
36 pursuant to this chapter.

37 (6) Recommend changes to statute, regulation, and practice, to
38 ensure that materials that require special handling are properly
39 removed from major appliances, before the appliances are



1 ~~crushed, baled, or shredded, and those materials are managed as~~
2 ~~hazardous waste.~~

3 ~~(b) On or before December 1, 2005, the Secretary for~~
4 ~~Environmental Protection shall report to the Legislature on the~~
5 ~~findings and recommendations of the Appliance Recycling~~
6 ~~Working Group.~~

7 ~~(c) This section shall remain in effect only until January 1,~~
8 ~~2006, and as of that date is repealed, unless a later enacted statute,~~
9 ~~that is enacted before January 1, 2006, deletes or extends that date.~~

10

