

AMENDED IN ASSEMBLY MAY 12, 2004

AMENDED IN ASSEMBLY APRIL 20, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2943

**Introduced by Assembly Member Pavley
(Coauthor: Assembly Member Levine)**

February 20, 2004

An act to add Article 10.4.1 (commencing with Section 25214.50) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2943, as amended, Pavley. Mercury pollution prevention.

(1) Existing law, the California Mercury Reduction Act of 2001, requires any mercury-containing vehicle light switch that is removed from a vehicle to be subject to the regulations adopted by the Department of Toxic Substances Control regarding the management of universal waste. Existing law prohibits any person, except as specified, from selling at retail or supplying a mercury fever thermometer to a consumer or patient in the state, except by a prescription. Existing law also prohibits any person from manufacturing, offering for sale or use, or distributing for promotional purposes in this state a mercury-added novelty and prohibits any school from purchasing, for use in the classroom, specified devices and materials containing mercury, except



measuring devices. Existing law, the Dry Cell Battery Management Act, regulates the sale of specified batteries and, among other things, prohibits the sale of dry cell batteries containing specified amounts of mercury. A violation of the hazardous waste control laws is a crime.

This bill would enact the “Mercury Pollution Prevention Act of 2004” and would prohibit any person, on and after June 1, 2005, from offering a mercury-added product for final sale or use or distributing a mercury-added product for promotional purposes in the state, unless the manufacturer of the mercury-added product notifies the Interstate Mercury Education and Reduction Clearinghouse (IMERC) in writing. The bill would require the notification to include specified information. The bill would require the manufacturer to update and revise the information in the notification whenever there is significant change in the information.

The bill would ~~also~~ prohibit any person, on and after January 1, 2006, from offering for sale or use, or distributing for promotional purposes, a mercury-added product manufactured after January 1, 2006, unless both the product and its packaging are labeled, in accordance with the labeling requirements of another state that is member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC).

The bill would prohibit, on and after January 1, 2006, a person ~~from being vaccinated~~ *who is pregnant or who is under 3 years of age from being vaccinated with a mercury-containing vaccine or injected with a mercury-added vaccine that contains more than a specified amount of mercury.*

The bill would state the intent of the Legislature that notices warning individuals feeding a young child, and women who are pregnant, nursing, or planning to become pregnant, be posted at locations where fresh or canned fish are sold, and be made available for public distribution at medical offices that service women and children. The bill would set forth specific information that should be contained in the notices if they are posted or made available, as specified.

The bill would prohibit, on and after January 1, 2006, the use or possession of elemental mercury in the practice of dentistry in a dental facility, unless that elemental mercury is contained in appropriate preencapsulated capsules, as defined, specifically designed for the mixing of dental amalgam.

Since a violation of the requirements and prohibitions of the bill 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. Article 10.4.1 (commencing with Section
2 25214.50) is added to Chapter 6.5 of Division 20 of the Health and
3 Safety Code, to read:

4
5 Article 10.4.1. Mercury Pollution Prevention Act of 2004

6
7 25214.50. This article shall be known, and may be cited, as the
8 “Mercury Pollution Prevention Act of 2004.”

9 25214.51. (a) The Legislature finds and declares all of the
10 following:

11 (1) Mercury is a persistent and toxic pollutant that
12 bioaccumulates in the environment and in the food chain.

13 (2) Due to the bioaccumulation of mercury and other
14 contaminants in fish, the California Environmental Protection
15 Agency has issued a warning advising that adults, and women who
16 are pregnant or who may become pregnant, should limit their fish
17 intake from several state waterways.

18 (3) By participating in existing interstate collaborative efforts,
19 the state can pursue a pollution prevention approach to mercury
20 reduction in the most cost effective manner.

21 (b) This article does not apply to any of the following:

22 (1) A major appliance subject to Article 10.1 (commencing
23 with Section 25211).

24 (2) A mercury-containing motor vehicle light switch subject to
25 Article 10.2 (commencing with Section 25214.5).

26 (3) A package, packaging component, or product subject to
27 Article 10.3 (commencing with Section 25214.11).

28 (4) A dry cell battery subject to Division 12.2 (commencing
29 with Section 15000) of the Public Resources Code.



1 (5) A mercury-added novelty or a thermometer subject to
2 Chapter 5 (commencing with Section 15025) of Division 12.2 of
3 the Public Resources Code.

4 (6) *A preencapsulated dental amalgam capsule as defined in*
5 *subdivision (e) of Section 25214.52.*

6 25214.52. For purposes of this article, the following
7 definitions apply:

8 (a) *“Bulk elemental mercury” means liquid elemental mercury*
9 *unless that elemental mercury is contained in a preencapsulated*
10 *capsule specifically designed for the mixing of dental amalgam.*

11 (b) *“Fabricated mercury-added product” means a*
12 *mercury-added product that consists of a combination of*
13 *individual components that combine to make a single unit,*
14 *including, but not limited to, a mercury-added measuring device,*
15 *lamp, or switch.*

16 ~~(b)~~

17 (c) *“Formulated mercury-added product” means a*
18 *mercury-added product that is a chemical product, including, but*
19 *not limited to, a laboratory chemical, cleaning product, cosmetic,*
20 *pharmaceutical, or coating material, that is sold as a consistent*
21 *mixture of chemicals.*

22 ~~(c)~~

23 (d) *“IMERC” means the Interstate Mercury Education and*
24 *Reduction Clearinghouse, which is an umbrella organization*
25 *designed to assist states in their implementation of mercury*
26 *reduction laws and programs to remove mercury from consumer*
27 *products, the waste stream, and the environment.*

28 ~~(d)~~

29 (e) *“Manufacturer” means any person, firm, association,*
30 *partnership, corporation, governmental entity, organization,*
31 *combination, or joint venture that produces a mercury-added*
32 *product in this state or a person who distributes a mercury-added*
33 *product in this state. For purposes of this article, if the product is*
34 *a multicomponent mercury-added product, “manufacturer”*
35 *means the last manufacturer to produce or assemble the product in*
36 *this state and if the multicomponent product is not produced in this*
37 *state, “manufacturer” means the person who distributes the*
38 *product in this state.*

39 ~~(e)~~



1 (f) “Mercury-added product” or “product” means a product,
2 commodity, chemical, or a product with a component that contains
3 mercury or a mercury compound intentionally added to the
4 product, commodity, chemical, or component to provide a specific
5 characteristic, appearance, or quality or to perform a specific
6 function or for any other reason. “Mercury-added product”
7 includes both a formulated mercury-added product and a
8 fabricated mercury-added product.

9 (g) “*Preencapsulated dental amalgam capsule*” means a
10 *premanufactured capsule containing measured amounts of*
11 *mercury, silver, and other materials, including copper, zinc, or tin,*
12 *for the purpose of filling teeth to restore them to proper function.*

13 25214.53. (a) Except as provided in subdivision (b), on and
14 after June 1, 2005, a person shall not offer a mercury-added
15 product for final sale or use in this state, or distribute a
16 mercury-added product for promotional purposes in the state,
17 unless the manufacturer of the mercury-added product notifies the
18 Interstate Mercury Education and Reduction Clearinghouse
19 (IMERC) in writing in accordance with this section. The notice
20 provided by the manufacturer shall include, but need not be limited
21 to, all of the following information:

22 (1) A brief description of the mercury-added product to be
23 offered for sale, use, or distribution.

24 (2) The amount of and purpose for mercury in each unit of the
25 mercury-added product.

26 (3) The total amount of mercury contained in all
27 mercury-added products manufactured by the manufacturer.

28 (4) The name and address of the manufacturer, and the name,
29 address, and telephone number of a contact.

30 (b) If a federal law that regulates a mercury-added product
31 subject to this section preempts the state from requiring a notice
32 requirement pursuant to this section, the mercury-added product
33 is exempt from this section.

34 (c) A manufacturer shall update and revise the information in
35 the notification required by this section whenever there is
36 significant change in the information.

37 25214.54. On and after January 1, 2006, a person may not
38 offer a mercury-added product manufactured after January 1,
39 2006, for sale or use in this state, or distribute for promotional
40 purposes in this state a mercury-added product manufactured after



1 January 1, 2006, unless both the product and its packaging are
2 labeled in accordance with the labeling requirements of another
3 state, if that state is a member of IMERC.

4 ~~25214.55. On and after January 1, 2006, a person may not be~~
5 ~~vaccinated with a mercury-added vaccine.~~

6 25214.55. *On and after January 1, 2006, a person who is*
7 *pregnant or who is under three years of age may not be vaccinated*
8 *with a mercury-containing vaccine or injected with a*
9 *mercury-added product that contains more than 0.5 micrograms*
10 *of mercury per 0.5 milliliter dose.*

11 25214.56. (a) It is the intent of the Legislature that notices
12 warning individuals feeding a young child, and women who are
13 pregnant, nursing, or planning to become pregnant, be posted at
14 locations where fresh or canned fish are sold.

15 (b) It is the intent of the Legislature that these notices also be
16 made available for public distribution at medical offices that
17 service women and children.

18 (c) If posted or made available, the notices should include a
19 statement that the federal Environmental Protection Agency and
20 the federal Food and Drug Administration both emphasize the
21 benefits of eating fish and advise all of the following:

22 (1) Consumers should know that fish and shellfish can be
23 important parts of a healthy and balanced diet.

24 (2) Fish and shellfish are good sources of high-quality protein
25 and other essential nutrients. However, as a matter of prudence,
26 women might wish to modify the amount and type of fish they
27 consume if they are planning to become pregnant, or are pregnant,
28 nursing, or feeding a young child.

29 (3) By following these three recommendations for selecting
30 and eating fish or shellfish, women will receive the benefits of
31 eating fish and shellfish and be confident that they have reduced
32 their exposure to the harmful effects of mercury:

33 (A) Do not eat shark, swordfish, king mackerel, or tilefish
34 because they contain high levels of mercury.

35 (B) Eat up to 12 ounces (two average meals) a week of a variety
36 of fish and shellfish that are lower in mercury, bearing in mind all
37 of the following:

38 (i) Five of the most commonly eaten fish that are low in
39 mercury are shrimp, canned light tuna, salmon, pollock, and
40 catfish.



1 (ii) Another commonly eaten fish, albacore (“white”) tuna,
2 has more mercury than canned light tuna. So, when choosing your
3 two meals of fish and shellfish, you may eat up to six ounces (one
4 average meal) of albacore tuna per week.

5 (C) Check local advisories about the safety of fish caught by
6 family and friends in your local lakes, rivers, and coastal areas. If
7 no advice is available, eat up to six ounces (one average meal) per
8 week of fish you catch from local waters, but don’t consume any
9 other fish during that week.

10 25214.57. *On and after January 1, 2006, the use or possession*
11 *of elemental mercury in the practice of dentistry is prohibited in a*
12 *dental facility, unless that elemental mercury is contained in*
13 *appropriate preencapsulated capsules specifically designed for*
14 *the mixing of dental amalgam.*

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

