

AMENDED IN SENATE MARCH 17, 2004

SENATE BILL

No. 1168

Introduced by Senator Ortiz

February 3, 2004

An act to add Chapter 8 (commencing with Section 105440) to Part 5 of Division 103 of the Health and Safety Code, relating to public health, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as amended, Ortiz. Healthy Californians Biomonitoring Program.

Existing law establishes various programs for the protection of the public from exposure to toxins, including, but not limited to, the Childhood Lead Poisoning Prevention Act, administered by the State Department of Health Services, which imposes a fee upon manufacturers or persons who are responsible for lead contamination and applies the proceeds of the fee to reduction or elimination of the harm caused by the lead contamination.

This bill would similarly require the *Division of Environmental and Occupational Disease Control within the department* to establish the Healthy Californians Biomonitoring Program to, with certain exceptions, assess a fee upon manufacturer or persons who ~~are responsible for identifiable sources of~~ *directly produce* toxic chemicals, as defined, and would authorize the department to adopt related regulations. This bill would list toxic chemicals that are subject to the bill and would authorize the ~~department~~ *Office of Environmental Health Hazard Assessment within the California Environmental Protection Agency* to adopt regulations to add other chemicals to the list.

This bill would *require the department and the agency* to establish an advisory panel to assist the department *and the agency*, and would provide for a phased implementation of the biomonitoring program with full implementation commencing after completion of initial pilot programs which would be required to be completed by January 1, 2008.

This bill would require the ~~department~~ *agency* to establish the fee and *would require the agency and the department* to annually adjust the fee, ~~which the State Board of Equalization would be required to collect.~~ The bill would establish the Healthy Californians Biomonitoring Fund for deposit of the fees and would, ~~upon appropriation by the Legislature,~~ *apply continuously appropriate* the proceeds of the fee to *the department* for the biomonitoring program, ~~for the reduction or elimination of toxic chemical exposure and for the mitigation of the harm caused by the exposure.~~ The bill would require the department to *provide public access to information, and to report to the Legislature and the public.*

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

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) Chronic disease has reached epidemic proportions in the*
- 5 *United States. An estimated 125 million Americans, or 43 percent*
- 6 *of the population, have at least one chronic condition.*
- 7 *Approximately 60 million people, or 21 percent of the population,*
- 8 *suffer from multiple chronic conditions. Chronic illness also*
- 9 *affects the young. Roughly 20 million of America’s children suffer*
- 10 *from at least one chronic health problem. Cancer, asthma, birth*
- 11 *defects, developmental disabilities, endometriosis, infertility, and*
- 12 *multiple sclerosis are becoming increasingly common, and*
- 13 *mounting evidence links incidence and severity of these diseases*
- 14 *to environmental toxicants.*
- 15 *(b) Chronic diseases cost the state billions of dollars per year.*
- 16 *For example, the estimated total cost of asthma in California is*
- 17 *approximately \$1.27 billion annually. The estimated lifetime costs*
- 18 *of medical and other treatment, plus lost productivity for all*
- 19 *affected individuals born in 1988 with one or more of the 18 most*



1 common birth defects, exceeds \$1 trillion. Special education for
2 children with learning disabilities, estimated to be more than one
3 million California children, could carry an annual price tag of \$12
4 billion. Viewed in economic terms, and terms of treatment, care,
5 and lost productivity, the cost of chronic diseases for both the
6 public and the private sector is staggering.

7 (c) An estimated 85,000 chemicals are registered for use today
8 in the United States. Another 2,000 chemicals are added each year.
9 Some toxicological screening data exists for only 7 percent of these
10 chemicals. More than 90 percent of these chemicals have never
11 been tested for their effects on human health. Many of these
12 chemicals are in daily use in cosmetics, hair products, pesticides,
13 food dyes, cleaning products, fuels, and plastics. Moreover, many
14 of these chemicals persist in the environment, and accumulate and
15 remain in body fat, including breast tissue, for decades.

16 (d) Of the estimated 85,000 chemicals, many have been shown
17 to be toxic to humans at various levels of exposure. The chemicals
18 set forth in Chapter 8 (commencing with Section 105440) of Part
19 5 of Division 103 of the Health and Safety Code, represent those
20 chemicals that the current scientific data have shown to cause
21 harm to human health. The Legislature finds that action is
22 necessary to identify the presence of these chemicals in individuals
23 and communities, to educate and counsel affected individuals and
24 communities, and to develop strategies to prevent or minimize the
25 harmful effects of the chemicals.

26 (e) The data produced through biomonitoring can support
27 efforts to improve public health by indicating trends in chemical
28 exposures, validating exposure modeling and survey methods,
29 supporting epidemiological studies, identifying
30 disproportionately affected communities or particularly
31 vulnerable communities, assessing the effectiveness of current
32 regulations, and helping to set priorities for action. Furthermore,
33 the systematic collection and analysis of biospecimens from
34 individuals may also have significant public health implications
35 since individual body burden data may be useful in extrapolating
36 the levels of exposure to environmental toxicants by a community
37 as a whole.

38 (f) Biomonitoring studies have shown human contamination
39 with a multitude of persistent chemicals is both chronic and
40 widespread. A report by the Centers for Disease Control and



1 *Prevention in January 2003 documented the presence of 116*
2 *environmental chemicals in the blood and urine of Americans of*
3 *all ages and races. Breast milk research has detected more than*
4 *200 toxic chemicals, including flame retardants, dioxins,*
5 *polychlorinated biphenyls (PCBs), DDT, and other pesticides.*
6 *Like no other body fluid, breast milk reflects the internal*
7 *contamination of the target organ for breast cancer. Many of the*
8 *contaminants found in breast milk are known to cause mammary*
9 *tumors in animals. Germany and Sweden have national breast milk*
10 *monitoring programs and this research has broad public health*
11 *implications throughout the world. However, to date, relatively*
12 *little research has been conducted in the United States to determine*
13 *levels of contaminants in humans.*

14 (g) *The presence of toxins in breast milk raises a special health*
15 *concern for breastfeeding mothers. However, the greatest risk from*
16 *exposure to harmful chemicals is during in utero development, and*
17 *medical research shows that mother's milk, with its*
18 *species-specific optimal nutrition and its anti-inflammatory*
19 *agents, including, but not limited to, antioxidants, helps a child*
20 *develop a stronger immune system and other potential protections*
21 *against environmental pollutants and pathogens. Breast milk is the*
22 *most critical and nutritious food for infants. Studies also show that*
23 *breast milk helps protect the infant from illnesses and allergies,*
24 *reduces the risk of childhood cancer and multiple sclerosis and*
25 *heart disease later in life, and provides the infant with needed*
26 *nutrients during critical periods of growth. Breastfeeding mothers,*
27 *infants, and expectant mothers, remain a focus because certain*
28 *persistent toxic chemicals tend to concentrate in breast milk, and*
29 *because breastfeeding remains the healthiest manner of sustaining*
30 *a young infant.*

31 (h) *The priority public policy recommendation from the 2002*
32 *International Summit on Breast Cancer and the Environment, held*
33 *in Santa Cruz, California, was to establish a national*
34 *biomonitoring program in the United States using breast milk and*
35 *other biospecimens to assess community health.*

36 (i) *In September 2001, the Legislature passed Senate Bill 702*
37 *(Chapter 538, Statutes of 2001), making California the first state*
38 *in the nation to begin planning a statewide environmental health*
39 *tracking network for chronic diseases and environmental hazards*
40 *and exposures. The SB 702 Expert Working Group spent more than*



1 a year on a mandated report on the development of a health
2 tracking system in California for the State Department of Health
3 Services and the Legislature. The report recommends the
4 establishment of a statewide biomonitoring program.

5 (j) Therefore, the Legislature declares that a statewide
6 biomonitoring program will expand the possibilities for
7 biomedical, epidemiological, and behavioral public health
8 research. There is a need for California, an established leader in
9 health promotion, health policy, and health care delivery and
10 response, to encourage and fund this research, which is vital to the
11 health and well-being of millions of citizens by developing
12 prevention measures for a full spectrum of diseases related to
13 environmental exposures.

14 SEC. 2. Chapter 8 (commencing with Section 105440) is
15 added to Part 5 of Division 103 of the Health and Safety Code, to
16 read:

17

18 CHAPTER 8. HEALTHY CALIFORNIANS BIOMONITORING PROGRAM

19

20 Article 1. General

21

22 105440. (a) This chapter shall be known, and may be cited,
23 as the Healthy Californians Biomonitoring Program.

24 (b) For the purposes of this chapter, the following words have
25 the following meanings:

26 (1) "Department" means the State Department of Health
27 Services.

28 (2) "Agency" means the California Environmental Protection
29 Agency.

30 (3) "Director" means the Director of Health Services.

31 (4) "Secretary" means the Secretary for Environmental
32 Protection.

33 (5) "Division" means the Division of Environmental and
34 Occupational Disease Control within the department.

35 (6) "Office" means the Office of Environmental Health Hazard
36 Assessment within the agency.

37 (7) "Division director" means the director of the division.

38 (8) "Office director" means the director of the office.

39 (9) "Biomonitoring" means the process by which the presence
40 and concentration of toxic chemicals and their metabolites are



1 identified within a biospecimen as a means to assess the chemical
2 body burden.

3 (10) “Biospecimen” means a sample of human blood, hair,
4 urine, breast milk, body fat and other body tissue, or any other
5 biophysical substance that is reasonably available as a medium to
6 measure the presence and concentration of toxic chemicals.

7 (11) “Toxic chemicals” means those chemicals that have been
8 demonstrated, through data provided by scientific peer reviewed
9 animal, cell, or human studies, to be known to negatively impact,
10 or strongly suspected of negatively impacting, human health by
11 contributing to an increase in serious illness or mortality, as set
12 forth in Article 3 (commencing with Section 105451).

13 (12) “Fund” means the Healthy Californians Biomonitoring
14 Fund established pursuant to Section 105457.

15 (13) “Panel” means the Healthy Californians Biomonitoring
16 Program Advisory Panel established pursuant to Article 2
17 (commencing with Section 105448).

18 105441. The division in collaboration with the agency shall
19 establish the Healthy Californians Biomonitoring Program. The
20 division is the lead agency for the program unless otherwise
21 specified in this chapter. The program shall utilize biospecimens,
22 as appropriate, to identify toxic chemicals that are present in the
23 bodies of Californians and shall initiate plans to minimize
24 exposure to these contaminants. Biomonitoring shall take place on
25 a strictly voluntary and confidential basis. Results reported
26 pursuant to this chapter shall not disclose individual confidential
27 information of participants. The program shall make services
28 under this chapter available to persons and communities on a
29 statewide basis.

30 105442. (a) The program’s first activities shall be the
31 examination of breast milk in three economically, racially, and
32 geographically diverse communities, and shall identify the
33 chemicals that are present in breast milk, investigate relationships
34 between specific environmental toxins and geographic areas, and
35 initiate plans to minimize exposure to these contaminants by June
36 2006. The initial activities shall assist in refining protocols,
37 material development, program planning, design implementation,
38 and dissemination of findings.

39 (b) The program shall expand by examining any other
40 biospecimens in additional communities by January 2008.



1 105443. (a) All participants shall be evaluated for the
2 presence of toxic chemicals as a component of the biomonitoring
3 process. Participants shall receive consultation, health care
4 referrals, followup counseling, and shall be offered educational
5 activities and materials, including, but not limited to, possible
6 routes of exposure, ways to reduce exposure, and state or local
7 resources. Any public or private entity, including local agencies,
8 may provide these activities by contract.

9 (b) In instances when a toxic chemical is detected in the
10 participants from a single community all of the following shall
11 apply:

12 (1) The department and the agency, in collaboration with the
13 community, may develop a community plan for the reduction or
14 minimization of the toxic chemical contamination or exposure.

15 (2) The office, the Department of Toxic Substances Control, the
16 Air Resources Board, and other public and private entities, as
17 appropriate, may collaborate to determine the presence of a toxic
18 chemical in the environment and possible routes of exposure, in
19 quantifiable amounts. These entities shall determine the presence
20 through any of the following activities:

21 (A) The sharing of existing data and studies.

22 (B) The environmental assessments of soil, water, air, food,
23 homes, consumer products, or other aspects of a community.

24 (3) The department and the agency may contract with any
25 public or private entity, including local agencies, to conduct
26 activities set forth in this subdivision.

27 (c) The department may provide funding for community
28 education programs to help avoid exposure or reduce harmful
29 exposures.

30 (d) The department and agency shall collect and analyze all
31 information necessary to effectively monitor the activities set forth
32 in Section 105442, and shall prepare a biennial report describing
33 the effectiveness of the efforts. This report shall be made available
34 to local health departments and the general public.

35 105444. (a) The department shall adopt guidelines to
36 implement this chapter, including, but not limited to, all of the
37 following:

38 (1) The development of model protocols, or program
39 guidelines, that address the science and practice of biomonitoring,
40 to be utilized pursuant to this chapter and the procedures for



1 *changing those protocols to incorporate new and more accurate*
2 *or efficient technologies as they become available. The model*
3 *protocols shall comply with all of the following:*

4 (A) *They shall be developed utilizing a peer review process in*
5 *a manner that is participatory and community-based in the design,*
6 *implementation, evaluation, and communication of findings.*

7 (B) *They shall include guidelines for ensuring confidentiality,*
8 *informed consent, followup counseling and support, and*
9 *communicating findings to participants, communities, and the*
10 *general public.*

11 (C) *For biomonitoring using breast milk, the guidelines for*
12 *individual consultation and community education shall ensure*
13 *that parents understand the importance of breastfeeding so that the*
14 *program does not have any unintended and unwarranted negative*
15 *effects upon a parent's decision whether to breastfeed.*

16 (2) (A) *The development of educational and outreach*
17 *materials, for dissemination to program participants and*
18 *communities, that are culturally appropriate and translated as*
19 *needed.*

20 (B) *Priority shall be given to the development of materials*
21 *specifically designed to ensure that parents are well informed*
22 *about all of the benefits of breastfeeding so that the program does*
23 *not result in an unjustified fear of toxins in breast milk which might*
24 *inadvertently lead parents to avoid breastfeeding.*

25 (C) *The materials shall also communicate relevant scientific*
26 *findings, body burden data, possible routes of exposure,*
27 *population-based health effects and toxicity, the benefits of linking*
28 *chemical body burdens to community health, and the regulatory*
29 *responses by local, state, and other governmental entities to*
30 *regulate toxicant exposures.*

31 (3) *The development of a training program specifically for*
32 *health care providers, health educators, and other program*
33 *administrators, that is culturally sensitive.*

34 (4) *The designation of state or private laboratories that are*
35 *qualified to analyze biospecimens and report the findings.*

36 (b) *The guidelines shall also serve as a guide for other*
37 *biomonitoring programs supported by state funds.*

38 105445. *The department, to the extent that funds are*
39 *available, may enter into contractual agreements with health*
40 *clinics, community-based organizations, or experts in a particular*



1 field, to perform any of the activities enumerated in the guidelines
2 adopted pursuant to Section 105444.

3 105446. To the extent that funds are available pursuant to this
4 chapter, moneys may be allocated from the fund for the purpose of
5 strengthening the state's laboratory capacity in order to meet the
6 responsibilities enumerated in this chapter.

7 105447. The office, in consultation with the panel, may to the
8 extent that funds are available, aggregate and present information
9 regarding safer alternatives to toxic chemicals pursuant to this
10 chapter.

11

12

Article 2. The Advisory Panel

13

14 105448. (a) The department and agency shall establish the
15 Healthy Californians Biomonitoring Program Advisory Panel.
16 The panel shall be composed of two committees, the Scientific
17 Committee and the Community Representative Committee, with a
18 combined membership of 16 members.

19 (b) The secretary shall appoint the chair of the Scientific
20 Committee and the director shall appoint the chair of the
21 Community Representative Committee from the panel's
22 membership, who shall also serve as cochairs of the panel.

23 (c) The panel shall meet as often as it deems necessary, with
24 consideration of available resources, but at a minimum on a
25 quarterly basis.

26 (d) Members of the panel and the committees shall serve
27 without compensation, but shall be reimbursed for travel and other
28 necessary expenses incurred in the performance of their duties
29 under this chapter.

30 (e) The panel shall make recommendations to the division and
31 office regarding the design and implementation of the program.

32 (f) The division, office, and the panel shall work and
33 communicate with the Primary Care and Family Health Division
34 of the department, and other offices concerning interagency
35 information sharing and the synchronization of environmental
36 tracking and policy formation. However, personal information, as
37 defined in Section 1798.3 of the Civil Code, shall not be shared
38 without the written and informed consent of the individual to whom
39 it pertains.



1 105449. *The director, the secretary, the President pro Tempore*
2 *of the Senate, and the Speaker of the Assembly shall each appoint*
3 *four members of the panel. All members shall be appointed to the*
4 *panel by July 1, 2005. Each member shall be appointed for a*
5 *three-year term.*

6 (a) *The Scientific Committee shall be composed of eight*
7 *members with background or training in interpreting*
8 *biomonitoring studies or in related fields or science, including, but*
9 *not limited to, the fields of health tracking, social science,*
10 *laboratory science, occupational health, industrial hygiene,*
11 *toxicology, epidemiology, environmental hazards, and public*
12 *health.*

13 (b) *The Community Representative Committee shall be*
14 *composed of eight members appointed by the director from*
15 *representatives of the following nongovernmental organizations:*

16 (1) *One member from a breast cancer awareness organization.*

17 (2) *One member from an organization with a focus on*
18 *environmental health.*

19 (3) *One member from an organization with a focus on*
20 *environmental justice.*

21 (4) *One member from an organization with a focus on child*
22 *environmental health.*

23 (5) *One member from an organization promoting*
24 *breastfeeding.*

25 (6) *One member from a labor organization.*

26 (7) *One member from private industry with a verifiable and*
27 *consistent commitment to sustainable core business practices that*
28 *reduce environmental toxins.*

29 (8) *One member from a public health organization.*

30 (c) (1) *The director and the secretary shall appoint the*
31 *following additional nonvoting members to the Community*
32 *Representative Committee:*

33 (A) *One representative from the Maternal and Child Health*
34 *Branch of the department.*

35 (B) *One member from each participating community.*

36 (2) *Members appointed pursuant to this subdivision may be*
37 *reappointed at any time and are not subject to the three-year term.*

38 105450. (a) *The Scientific Committee shall make*
39 *recommendations to the panel on all of the following activities:*



1 (1) *In consultation with the Community Representative*
2 *Committee, identifying chemicals to be tracked under this chapter*
3 *and recommending to the director and secretary additional*
4 *chemicals to the list of toxic chemicals pursuant to the process set*
5 *forth in Section 105452.*

6 (2) *Choosing the biospecimens to be utilized in specific studies.*

7 (3) *Determining the number of people to be included in any*
8 *pilot program pursuant to this chapter.*

9 (4) *The design of sampling schemes and measurement methods.*

10 (5) *Collecting and analyzing the data.*

11 (b) *The Community Representative Committee shall make*
12 *recommendations to the panel on all of the following:*

13 (1) *Study sites or communities for the program, and identifying*
14 *community partners.*

15 (2) *Review of model protocols, training program, and*
16 *educational and outreach materials.*

17 (3) *Review of draft legislative reports.*

18 (4) *Review the interpretation and dissemination of findings to*
19 *biomonitoring program participants and to the general public.*

20 (c) *The Community Representative Committee shall consider*
21 *the criteria and recommendations generated by the department's*
22 *Biomonitoring Planning Project, the California Environmental*
23 *Health Tracking Network, and the California Environmental*
24 *Health Tracking Program when making its recommendations.*

25

26 *Article 3. Toxic Chemicals*

27

28 *105451. The following chemicals are toxic chemicals subject*
29 *to this chapter and any manufacturer or person who is responsible*
30 *for either producing or distributing the chemicals shall pay the fees*
31 *assessed by the agency as set forth in this chapter:*

32 *Acrolein*

33 *Alachlor*

34 *Antimony and compounds*

35 *Arsenic and compounds*

36 *Atrazine*

37 *Benzene*

38 *Benzyl Butyl Phthalate (BBP)*

39 *Beryllium and compounds*

40 *Bisphenol A*



- 1 *Bromoform*
- 2 *1,3-butadiene*
- 3 *Cadmium and compounds*
- 4 *Carbofuran*
- 5 *Carbon tetrachloride*
- 6 *Chlorobenzilate*
- 7 *Chloroform*
- 8 *Chlordimeform*
- 9 *Chlorinated dioxins*
- 10 *Chlorinated dibenzofurans*
- 11 *Chromium and compounds*
- 12 *Cobalt and compounds*
- 13 *Decabrominated diphenyl ethers (DecaBDE)*
- 14 *Diazinon*
- 15 *1,2-Dibromo-3-chloropropane (DBCP)*
- 16 *Dibutyl phthalate (DBP)*
- 17 *2,4-Dichlorobenzene*
- 18 *1,4-Dichlorobenzene*
- 19 *1,2-Dichloroethane*
- 20 *Di-20ethylhexylphthalate (DEHP)*
- 21 *Dichlorvos*
- 22 *Dicofol*
- 23 *Dursban*
- 24 *Endosulfan*
- 25 *Ethyl benzene*
- 26 *Ethylene Dibromide*
- 27 *Hexachlorobenzene*
- 28 *Lead and compounds*
- 29 *Malathion*
- 30 *Manganese and compounds*
- 31 *Mercury and compounds*
- 32 *Methomyl*
- 33 *Methoxychlor*
- 34 *Methyl chloroform*
- 35 *Methyl Parathion*
- 36 *Methylene Chloride*
- 37 *Musk Ketone*
- 38 *Musk Xylene*
- 39 *Naled*
- 40 *Paraquat*



- 1 *Parathion*
- 2 *Pentabrominated diphenyl ether (PentaBDE)*
- 3 *Pentachloronitrobenzene*
- 4 *Pentachlorophenol*
- 5 *Perchloroethylene*
- 6 *2-phenylphenol*
- 7 *Polybrominated biphenyls (PBBs)*
- 8 *Perfluorooctanoic acid or chemicals that degrade to PFOA*
- 9 *Perfluorooctane sulfonate*
- 10 *Polychlorinated biphenyls (PCB)*
- 11 *Propoxur*
- 12 *Tetrabromobisphenol A*
- 13 *Toluene*
- 14 *2,4-Toluene Diisocyanate*
- 15 *Triclosan*
- 16 *2,4,6-trichlorophenols*
- 17 *Trifluralin*
- 18 *Xylenes*
- 19 *Polyaromatic Hydrocarbons and their metabolites, including*
- 20 *all of the following:*
- 21 *benzo(a)pyrene*
- 22 *dibenz(a,h)anthracene*
- 23 *7,12-dimethylbenzanthracene*
- 24 *7H-dibenzo(c,g)carbazole*
- 25 *benz(a)anthracene*
- 26 *benzo(b)fluoranthene*
- 27 *benzo(j)fluoranthene*
- 28 *benzo(k)fluoranthene*
- 29 *dibenz(a,j)acridine*
- 30 *dibenz(a,h)acridine*
- 31 *dibenzo(a,e)pyrene*
- 32 *dibenzo(a,h)pyrene*
- 33 *dibenzo(a,i)pyrene*
- 34 *dibenzo(a,l)pyrene*
- 35 *1,6-dinitropyrene*
- 36 *1,8-dinitropyrene*
- 37 *4-nitropyrene*
- 38 *6-nitrochrysene*
- 39 *chrysene*
- 40 *2-nitrofluorene*



1 *indeno(1,2,3-cd)pyrene*

2 *naphthalene*

3 *105452. In addition to the list of toxic chemicals set forth in*
4 *Section 105451, the director and the secretary may add additional*
5 *toxic chemicals within the scope of this chapter if all of the*
6 *following criteria are met:*

7 *(a) The chemical is recommended for inclusion within the*
8 *scope of this chapter by the Scientific Committee pursuant to*
9 *Section 105450.*

10 *(b) The secretary finds both of the following:*

11 *(1) The scientific, peer reviewed data from animal, cell, or*
12 *human studies have demonstrated the chemical to be known or*
13 *strongly suspected to negatively impact human health by*
14 *contributing to an increase in serious illness or mortality.*

15 *(2) Californians are exposed to the chemical.*

16

17 *Article 4. Fiscal Provisions*

18

19 *105453. The program implemented pursuant to this chapter*
20 *shall be fully supported from the fees collected pursuant to this*
21 *chapter. Notwithstanding the scope of activity mandated by this*
22 *chapter, in no event shall this chapter be interpreted to require*
23 *services necessitating expenditures in any fiscal year in excess of*
24 *the fees, and earnings there from, collected pursuant to this*
25 *chapter. Except for startup activities initially funded from loans as*
26 *set forth in Section 105458, this chapter shall be implemented only*
27 *to the extent that fee revenues are available for expenditure for*
28 *purposes of this chapter.*

29 *105454. (a) There is hereby imposed a fee on all of the*
30 *following:*

31 *(1) Manufacturers and other persons who directly produce any*
32 *toxic chemical set forth in this chapter.*

33 *(2) Any business or person who imports into the state or*
34 *distributes within the state any toxic chemical listed in this chapter.*

35 *(b) The agency shall, by regulation, shall establish specific fees*
36 *not to exceed ____ dollars (\$____) per pound to be assessed on*
37 *manufacturers, importers, and distributors.*

38 *105455. (a) To the maximum extent practicable, the fees shall*
39 *be assessed on the basis of a manufacturer's or person's present*
40 *responsibility for environmental toxic chemical contamination.*



1 (b) No fee shall be assessed upon any retailer products
2 containing toxic chemicals.

3 (c) No fee shall be assessed upon any manufacturer or person
4 for the consequences of lead toxicity subject to Chapter 5
5 (commencing with Section 105275).

6 (d) The agency may collect the fees imposed pursuant to this
7 section or may contract with the State Board of Equalization or
8 another party for collection of fees due under this section.

9 105456. (a) The annual fee assessment shall be adjusted by
10 the department and agency to reflect both of the following:

11 (1) The increase in the annual average of the California
12 Consumer Price Index, as recorded by the Department of
13 Industrial Relations, for the most recent year available.

14 (2) The increase or decrease in the number of participants who
15 are found to have exposure to toxic chemicals pursuant to this
16 chapter.

17 (b) No fee shall be assessed upon a party if that party
18 demonstrates to the agency's satisfaction, providing scientific,
19 academic, and peer reviewed research, that the party merits an
20 exemption from this chapter because the party's conduct did not
21 contribute in any manner to the toxic chemical contamination, or
22 the toxic chemical does not currently result in quantifiably
23 persistent human toxic chemical exposure.

24 105457. (a) The fee imposed pursuant to this chapter shall be
25 collected by the department or an entity that the department
26 contracts with in accordance with Part 22 (commencing with
27 Section 43001) of Division 2 of the Revenue and Taxation Code.
28 The fees shall be deposited in the Healthy Californians
29 Biomonitoring Fund, which is hereby established in the State
30 Treasury. All fees collected pursuant to this chapter shall be
31 deposited in the fund. All interest earned on the moneys that have
32 been deposited into the fund shall be retained in the fund. Moneys
33 in the fund are, notwithstanding Section 13340 of the Government
34 Code, continuously appropriated to the department for, and shall
35 be expended for, the purposes of this chapter.

36 (b) The fees collected pursuant to this chapter and the earnings
37 therefrom shall be used solely for the purposes of biomonitoring
38 as set forth in this chapter. The department shall not collect fees
39 pursuant to this chapter in excess of the amount reasonably
40 anticipated by the department to fully implement this chapter. The



1 department shall not spend more than it collects from the fees and
2 the earnings in implementing this chapter including repayment of
3 startup loans. In no fiscal year shall the department collect more
4 than ten million dollars (\$10,000,000) in fees, as adjusted
5 pursuant to Section 105456.

6 (c) The adoption, amendment, or repeal of a regulation for fee
7 assessment and collection, including subsequent amendments or
8 adjustments, authorized by this chapter is hereby exempted from
9 the rulemaking provisions of the Administrative Procedure Act
10 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code). However, upon
12 adoption, the regulation shall be filed with the Secretary of State
13 and printed in the California Code of Regulations.

14 105458. (a) It is the intent of the Legislature, in subsequent
15 legislation, to appropriate and to deposit into the fund, the sum of
16 one million five hundred thousand dollars (\$1,500,000) from the
17 General Fund to the Controller for allocation as loans, to the
18 department, for the purposes of adopting regulations to establish
19 the fee schedule authorized by this chapter and startup costs
20 related to implementing this chapter. It is the intent of the
21 Legislature that the department fully repay the amount of this loan
22 with interest at the pooled money investment rate, from fees
23 collected pursuant to this chapter within that same fiscal year as
24 appropriated so as to yield a revenue-neutral appropriation.

25 (b) Costs associated with administration of the program, shall
26 not exceed 15 percent of the entire amount deposited into the fund
27 in any fiscal year.

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Article 5. Reporting

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31 105459. (a) The department shall provide the public access
32 to information which they are required to release pursuant to the
33 California Public Records Act (Chapter 3.5 (commencing with
34 Section 6250) of Division 7 of Title 1 of the Government Code) in
35 a manner that is timely and understandable to the average person.

36 (b) The division and office shall disseminate biomonitoring
37 findings to the general public via governmental and other Web
38 sites. All health and environmental exposure data shall be
39 provided to the general public in a summary format to protect the
40 confidentiality of program participants. Within 30 calendar days



1 *after the division releases its interim and final report to the*
2 *Legislature, the reports shall be made available to the public.*

3 105460. (a) *By January 1, 2007, the department shall submit*
4 *a report to the Legislature summarizing the first activities of the*
5 *program, including program descriptions, methodology, program*
6 *outcomes, and assessment of the activities of the various*
7 *biomonitoring functions conducted pursuant to this chapter. The*
8 *report shall include an assessment of the response by industry and*
9 *others to the recommendations regarding alternatives to toxic*
10 *chemicals pursuant to Section 105447.*

11 (b) *By January 1, 2009, in consultation with the panel, the*
12 *department shall submit a report to the Legislature regarding*
13 *recommendations on improving the program based on the first*
14 *activities and findings. The report shall include a summary of the*
15 *biennial reports prepared pursuant to Section 105443. The*
16 *department shall, by January 1, 2010, and annually thereafter, in*
17 *consultation with the panel, forward a report to the Legislature on*
18 *the program, policy, and report findings.*

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Senate February 3, 2004. (JR 11)**

