

AMENDED IN SENATE MAY 24, 2004
AMENDED IN SENATE MAY 4, 2004
AMENDED IN SENATE APRIL 28, 2004
AMENDED IN SENATE APRIL 15, 2004
AMENDED IN SENATE APRIL 12, 2004
AMENDED IN SENATE MARCH 17, 2004

SENATE BILL

No. 1168

**Introduced by Senator Ortiz
(Coauthor: Senator Kuehl)**

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, commencing January 1, 2006, 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 manufacturers or persons who 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, *would require a phased implementation of the listed chemicals*, and would authorize the 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, 2009.

This bill would require the agency to establish an appropriate fee schedule and would require the agency and the department to annually adjust the fee. The bill would establish the Healthy Californians Biomonitoring Fund for deposit of the fees and would continuously appropriate the proceeds of the fee to the agency for the biomonitoring program. The bill would require the department to provide public access to information, and to report to the Legislature and the public.

Vote: majority. Appropriation: 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 following:
 3 (a) Chronic disease has reached epidemic proportions in the
 4 United States. An estimated 125 million Americans, or 43 percent
 5 of the population, have at least one chronic condition.
 6 Approximately 60 million people, or 21 percent of the population,
 7 suffer from multiple chronic conditions. Chronic illness also
 8 affects the young. Roughly 20 million of America's children suffer
 9 from at least one chronic health problem. Cancer, asthma, birth
 10 defects, developmental disabilities, endometriosis, infertility, and
 11 multiple sclerosis are becoming increasingly common, and
 12 mounting evidence links incidence and severity of these diseases
 13 to environmental toxicants.



1 (b) Chronic diseases cost the state billions of dollars per year.
2 For example, the estimated total cost of asthma in California is
3 approximately \$1.27 billion annually. The estimated lifetime costs
4 of medical and other treatment, plus lost productivity for all
5 affected individuals born in 1988 with one or more of the 18 most
6 common birth defects, exceeds \$1 trillion. Special education for
7 children with learning disabilities, estimated to be more than one
8 million California children, could carry an annual price tag of \$12
9 billion. Viewed in economic terms, and terms of treatment, care,
10 and lost productivity, the cost of chronic diseases for both the
11 public and the private sector is staggering.

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

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

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



1 the levels of exposure to environmental toxicants by a community
2 as a whole.

3 (f) Biomonitoring studies have shown human contamination
4 with a multitude of persistent chemicals is both chronic and
5 widespread. A report by the Centers for Disease Control and
6 Prevention in January 2003 documented the presence of 116
7 environmental chemicals in the blood and urine of Americans of
8 all ages and races. Breast milk research has detected more than 200
9 toxic chemicals, including flame retardants, dioxins,
10 polychlorinated biphenyls (PCBs), DDT, and other pesticides.
11 Like no other body fluid, breast milk reflects the internal
12 contamination of the target organ for breast cancer. Many of the
13 contaminants found in breast milk are known to cause mammary
14 tumors in animals. Germany and Sweden have national breast milk
15 monitoring programs and this research has broad public health
16 implications throughout the world. However, to date, relatively
17 little research has been conducted in the United States to determine
18 levels of contaminants in humans.

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

36 (h) The priority public policy recommendation from the 2002
37 International Summit on Breast Cancer and the Environment, held
38 in Santa Cruz, California, was to establish a national
39 biomonitoring program in the United States using breast milk and
40 other biospecimens to assess community health.



1 (i) In September 2001, the Legislature passed Senate Bill 702
2 (Chapter 538, Statutes of 2001), making California the first state
3 in the nation to begin planning a statewide environmental health
4 tracking network for chronic diseases and environmental hazards
5 and exposures. The SB 702 Expert Working Group spent more
6 than a year on a mandated report on the development of a health
7 tracking system in California for the State Department of Health
8 Services and the Legislature. The report recommends the
9 establishment of a statewide biomonitoring program.

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

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

22

23 CHAPTER 8. HEALTHY CALIFORNIANS BIOMONITORING PROGRAM

24

25 Article 1. General

26

27 105440. (a) This chapter shall be known, and may be cited,
28 as the Healthy Californians Biomonitoring Program.

29 (b) For the purposes of this chapter, the following words have
30 the following meanings:

31 (1) "Department" means the State Department of Health
32 Services.

33 (2) "Agency" means the California Environmental Protection
34 Agency.

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

36 (4) "Secretary" means the Secretary for Environmental
37 Protection.

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



1 (6) "Office" means the Office of Environmental Health
2 Hazard Assessment within the agency.

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

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

5 (9) "Biomonitoring" means the process by which the presence
6 and concentration of toxic chemicals and their metabolites are
7 identified within a biospecimen as a means to assess the chemical
8 body burden.

9 (10) "Biospecimen" means a sample of human blood, hair,
10 urine, breast milk, body fat and other body tissue, or any other
11 biophysical substance that is reasonably available as a medium to
12 measure the presence and concentration of toxic chemicals.

13 (11) "Toxic chemicals" means those chemicals that have been
14 demonstrated, through data provided by scientific peer reviewed
15 animal, cell, or human studies, to be known to negatively impact,
16 or strongly suspected of negatively impacting, human health by
17 contributing to an increase in serious illness or mortality, as set
18 forth in Article 3 (commencing with Section 105451).

19 (12) "Fund" means the Healthy Californians Biomonitoring
20 Fund established pursuant to Section 105457.

21 (13) "Panel" means the Healthy Californians Biomonitoring
22 Program Advisory Panel established pursuant to Article 2
23 (commencing with Section 105448).

24 (c) This chapter shall become operative January 1, 2006.
25 105441. The division in collaboration with the agency shall
26 establish the Healthy Californians Biomonitoring Program. The
27 division is the lead agency for the program unless otherwise
28 specified in this chapter. The program shall utilize biospecimens,
29 as appropriate, to identify toxic chemicals that are present in the
30 bodies of Californians and shall initiate plans to minimize
31 exposure to these contaminants. Biomonitoring shall take place on
32 a strictly voluntary and confidential basis. Results reported
33 pursuant to this chapter shall not disclose individual confidential
34 information of participants. The program shall make services
35 under this chapter available to persons and communities on a
36 statewide basis.

37 105442. (a) The program's first activities shall be the
38 examination of breast milk in three economically, racially, and
39 geographically diverse communities, and shall identify the
40 chemicals that are present in breast milk, investigate relationships



1 between specific environmental toxins and geographic areas, and
2 initiate plans to minimize exposure to these contaminants. The
3 initial activities shall assist in refining protocols, material
4 development, program planning, design implementation, and
5 dissemination of findings by January 1, 2008.

6 (b) The program shall expand by examining any other
7 biospecimens in additional communities by January 2009.

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

16 (b) In instances when a toxic chemical is detected in the
17 program participants, the following may apply:

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

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

25 (B) The environmental assessments of soil, water, air, food,
26 homes, consumer products, or aspects of a particular community.

27 (2) The department and the agency, in consultation with the
28 panel, may develop recommendations for the reduction or
29 minimization of the toxic chemical contamination or exposure.

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

33 (c) The department may provide funding for community
34 education programs to help avoid exposure or reduce harmful
35 exposures.

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



1 105444. (a) The department shall adopt guidelines to
2 implement this chapter, including, but not limited to, all of the
3 following:

4 (1) The development of model protocols, or program
5 guidelines, that address the science and practice of biomonitoring,
6 to be utilized pursuant to this chapter and the procedures for
7 changing those protocols to incorporate new and more accurate or
8 efficient technologies as they become available. The model
9 protocols shall comply with all of the following:

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

13 (B) They shall include guidelines for ensuring confidentiality,
14 informed consent, followup counseling and support, and
15 communicating findings to participants, communities, and the
16 general public.

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

22 (2) (A) The development of educational and outreach
23 materials, for dissemination to program participants and
24 communities, that are culturally appropriate and translated as
25 needed.

26 (B) Priority shall be given to the development of materials
27 specifically designed to ensure that parents are well informed
28 about all of the benefits of breastfeeding so that the program does
29 not result in an unjustified fear of toxins in breast milk which might
30 inadvertently lead parents to avoid breastfeeding.

31 (C) The materials shall also communicate relevant scientific
32 findings, body burden data, possible routes of exposure,
33 population-based health effects and toxicity, the benefits of linking
34 chemical body burdens to community health, and the regulatory
35 responses by local, state, and other governmental entities to
36 regulate toxicant exposures.

37 (3) The development of a training program specifically for
38 health care providers, health educators, and other program
39 administrators that is culturally sensitive.



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

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

5 105445. The department, to the extent that funds are
6 available, may enter into contractual agreements with health
7 clinics, community-based organizations, or experts in a particular
8 field to perform any of the activities enumerated in the guidelines
9 adopted pursuant to Section 105444.

10 105446. To the extent that funds are available pursuant to this
11 chapter, moneys may be allocated from the fund for the purpose
12 of strengthening the state's laboratory capacity in order to meet the
13 responsibilities enumerated in this chapter.

14 105447. The office, in consultation with the panel, and to the
15 extent that funds are available, may evaluate the available data on
16 the persistence, bioaccumulation, and toxicity of known potential
17 alternatives to toxic chemicals pursuant to this chapter.

18

19

Article 2. The Advisory Panel

20

21 105448. (a) The department and agency shall establish the
22 Healthy Californians Biomonitoring Program Advisory Panel.
23 The panel shall be composed of two committees, the Scientific
24 Committee and the Community Representative Committee, with
25 a combined membership of 16 members.

26 (b) The secretary shall appoint the Chair of the Scientific
27 Committee and the director shall appoint the Chair of the
28 Community Representative Committee from the panel's
29 membership, who shall also serve as cochairs of the panel.

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

33 (d) Members of the panel and the committees shall serve
34 without compensation, but shall be reimbursed for travel and other
35 necessary expenses incurred in the performance of their duties
36 under this chapter.

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

39 (f) The division, office, and the panel shall work and
40 communicate with the Primary Care and Family Health Division



1 of the department, and other offices concerning interagency
2 information sharing and the synchronization of environmental
3 tracking and policy formation. However, personal information, as
4 defined in Section 1798.3 of the Civil Code, shall not be shared
5 without the written and informed consent of the individual to
6 whom it pertains.

7 (g) The department may consider the analytical methods
8 utilized by the federal Centers for Disease Control and Prevention
9 for the studies known collectively as the National Report on
10 Human Exposures to Environmental Chemicals.

11 105449. The director, the secretary, the President pro
12 Tempore of the Senate, and the Speaker of the Assembly shall each
13 appoint four members of the panel. All members shall be
14 appointed to the panel by July 1, 2006. Each member shall be
15 appointed for a three-year term. All appointments made by the
16 director and the secretary shall be approved by the Governor.

17 (a) The Scientific Committee shall be composed of eight
18 members with background or training in interpreting
19 biomonitoring studies or in related fields or science, including, but
20 not limited to, the fields of health tracking, social science,
21 laboratory science, occupational health, industrial hygiene,
22 toxicology, epidemiology, environmental hazards, and public
23 health.

24 (b) The Community Representative Committee shall be
25 composed of eight members from the following nongovernmental
26 organizations:

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

28 (2) One member from an organization with a focus on
29 environmental health.

30 (3) One member from an organization with a focus on
31 environmental justice.

32 (4) One member from an organization with a focus on child
33 environmental health.

34 (5) One member from an organization promoting
35 breastfeeding.

36 (6) One member from a labor organization.

37 (7) One member from private industry with a verifiable and
38 consistent commitment to sustainable core business practices that
39 reduce environmental toxins.

40 (8) One member from a public health organization.



1 (c) (1) The director and the secretary shall appoint the
2 following additional nonvoting members to the Community
3 Representative Committee:

4 (A) One representative from the Maternal and Child Health
5 Branch of the department.

6 (B) One member from each participating community.

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

9 105450. (a) The Scientific Committee shall review program
10 priorities, draft protocols, study reports and the list of chemicals
11 provided by the division and the agency, and make science-based
12 recommendations to the panel on all of the following:

13 (1) Chemicals that should be added to or deleted from the list
14 of chemicals of concern.

15 (2) Priorities for biomonitoring in California.

16 (3) The adequacy of draft protocols for biomonitoring
17 investigations.

18 (4) The adequacy and appropriate interpretation of reports of
19 biomonitoring investigations carried out under the program.

20 (5) Collecting and analyzing the data.

21 (b) The Community Representative Committee shall make
22 recommendations to the panel on all of the following:

23 (1) Study sites or communities for the program, and identifying
24 community partners.

25 (2) Review of model protocols, training programs, and
26 educational and outreach materials.

27 (3) Review of draft legislative reports.

28 (4) Review the interpretation and dissemination of findings to
29 biomonitoring program participants and to the general public.

30 (c) The Community Representative Committee shall consider
31 the criteria and recommendations generated by the department's
32 Biomonitoring Planning Project, the California Environmental
33 Health Tracking Network, and the California Environmental
34 Health Tracking Program when making its recommendations.

35

36 Article 3. Toxic Chemicals

37

38 105451. The following chemicals are toxic chemicals subject
39 to this chapter and the Legislature declares that these chemicals
40 have met the criteria set forth in subdivision (b) of Section 105452.



- 1 Any manufacturer or person who is responsible for either
- 2 producing or distributing the chemicals shall pay the fees assessed
- 3 by the agency as set forth in this chapter:
- 4 Acrolein
- 5 Alachlor
- 6 Antimony and compounds
- 7 Arsenic and compounds
- 8 Atrazine
- 9 Benzene
- 10 Benzyl Butyl Phthalate (BBP)
- 11 Beryllium and compounds
- 12 Bisphenol A
- 13 1,3-butadiene
- 14 Cadmium and compounds
- 15 Carbon tetrachloride
- 16 Chloroform
- 17 Chlordimeform
- 18 Chlorpyrifos
- 19 Chromium and compounds
- 20 Cobalt and compounds
- 21 Decabrominated diphenyl ethers (DecaBDE)
- 22 Diazinon
- 23 Dibutyl phthalate (DBP)
- 24 2,4-Dichlorobenzene
- 25 1,4-Dichlorobenzene
- 26 1,2-Dichloroethane
- 27 Di-20ethylhexylphthalate (DEHP)
- 28 Dichlorvos
- 29 Dicofol
- 30 Endosulfan
- 31 Ethyl benzene
- 32 Lead and compounds
- 33 Malathion
- 34 Manganese and compounds
- 35 Mercury and compounds
- 36 Methomyl
- 37 Methoxychlor
- 38 Methyl chloroform
- 39 Methyl Parathion
- 40 Methylene Chloride



- 1 Musk Ketone
- 2 Musk Xylene
- 3 Naled
- 4 Paraquat
- 5 Parathion
- 6 Pentabrominated diphenyl ether (PentaBDE)
- 7 Pentachloronitrobenzene
- 8 Perchloroethylene
- 9 2-phenylphenol
- 10 Polybrominated biphenyls (PBBs)
- 11 Perfluorooctanoic acid or chemicals that degrade to PFOA
- 12 Perfluorooctane sulfonate
- 13 Propoxur
- 14 Tetrabromobisphenol A
- 15 Toluene
- 16 2,4-Toluene Diisocyanate
- 17 Triclosan
- 18 2,4,6-trichlorophenols
- 19 Trifluralin
- 20 Xylenes

21 105452. In addition to the list of toxic chemicals set forth in
22 Section 105451, the director and the secretary may add additional
23 toxic chemicals within the scope of this chapter if all of the
24 following criteria are met:

25 (a) The chemical is recommended for inclusion within the
26 scope of this chapter by the Scientific Committee pursuant to
27 Section 105450.

28 (b) The secretary finds all of the following:

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

33 (2) Californians are exposed to the chemical.

34 (3) The chemical is listed as a toxic chemical on either a state
35 or federal list.

36 (4) The chemical has been found in sufficient quantities to
37 ensure that the fee assessment, when compared to the projected
38 administrative costs under this chapter associated with that
39 chemical, would be economically viable.



1 105452.5. (a) *The director and the secretary shall phase in*
2 *the implementation of this chapter. The director and the secretary*
3 *shall prioritize the toxic chemicals set forth in Section 105451,*
4 *including chemicals added to the list pursuant to Section 105452,*
5 *according to the threat they pose to the public health.*

6 (b) *Commencing with the 2007–08 fiscal year, the director and*
7 *the secretary shall implement this chapter, including, but not*
8 *limited to, the assessment of fees and the biomonitoring activities,*
9 *only with regard to the 20 toxic chemicals that present the greatest*
10 *public health risk.*

11 (c) *Commencing with the 2009–10 fiscal year, the director and*
12 *the secretary shall implement this chapter, including, but not*
13 *limited to, the assessment of fees and the biomonitoring activities,*
14 *only with regard to the 40 toxic chemicals that present the greatest*
15 *public health risk.*

16 (d) *Commencing with the 2011–12 fiscal year, and each*
17 *two-year period thereafter, the director and the secretary shall add*
18 *no more than an additional 20 chemicals, in order of priority, to*
19 *the implementation list established pursuant to this section.*

20

21

Article 4. Fiscal Provisions

22

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

33 105454. (a) There is hereby imposed a fee on the first point
34 of sale on all of the following:

35 (1) Manufacturers and other persons who directly produce any
36 toxic chemical set forth in this chapter.

37 (2) Any business or person who is in nonretail business and
38 who distributes within the state any toxic chemical listed in this
39 chapter.



1 (b) The agency shall, by regulation, establish an appropriate fee
2 schedule to be assessed on manufacturers, ~~importers~~, and
3 distributors.

4 105455. (a) To the maximum extent practicable, the fees
5 shall be assessed on the basis of a manufacturer's or person's
6 present responsibility for environmental toxic chemical
7 contamination.

8 (b) No fee shall be assessed upon any retailer of products
9 containing toxic chemicals.

10 (c) The agency may collect the fees imposed pursuant to this
11 section or may contract with the State Board of Equalization or
12 another party for collection of fees due under this section.

13 105456. (a) The annual fee assessment shall be adjusted by
14 the department and agency to reflect the increase in the annual
15 average of the California Consumer Price Index, as recorded by
16 the Department of Industrial Relations, for the most recent year
17 available.

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

26 (c) The agency shall conduct a review every ~~three~~ two years,
27 beginning ~~January 1, 2009~~ with the 2011-12 fiscal year, to
28 determine the appropriate levels for assessing the fee pursuant to
29 this chapter. *This review shall coincide with the two-year*
30 *implementation phase-in periods set forth in Section 105452.5.*

31 105457. (a) The fee imposed pursuant to this chapter shall be
32 collected by the agency or an entity that the agency contracts with
33 in accordance with Part 22 (commencing with Section 43001) of
34 Division 2 of the Revenue and Taxation Code. The fees shall be
35 deposited in the Healthy Californians Biomonitoring Fund, which
36 is hereby established in the State Treasury. All fees collected
37 pursuant to this chapter shall be deposited in the fund. All interest
38 earned on the moneys that have been deposited into the fund shall
39 be retained in the fund. Moneys in the fund are, notwithstanding
40 Section 13340 of the Government Code, continuously



1 appropriated to the agency for, and shall be expended for, the
2 purposes of this chapter.

3 (b) The fees collected pursuant to this chapter and the earnings
4 therefrom shall be used solely for the purposes of biomonitoring
5 as set forth in this chapter. The agency shall not collect fees
6 pursuant to this chapter in excess of the amount reasonably
7 anticipated by the agency to fully implement this chapter. The
8 agency shall not spend more than it collects from the fees and the
9 earnings in implementing this chapter including repayment of
10 startup loans. ~~In no fiscal year shall the agency collect more than~~
11 ~~ten million dollars (\$10,000,000) in fees, as adjusted pursuant to~~
12 ~~Section 105456.~~

13 ~~(e) startup loans, if any.~~

14 (c) *Commencing with the 2007–08 fiscal year, the agency shall*
15 *collect not more than four million dollars (\$4,000,000) per fiscal*
16 *year in fees pursuant to this chapter as adjusted pursuant to*
17 *Section 105456. Commencing with the 2009–10 fiscal year, the*
18 *agency shall collect not more than eight million dollars*
19 *(\$8,000,000) per fiscal year in fees pursuant to this chapter, as*
20 *adjusted pursuant to Section 105456. Commencing with the*
21 *2011–12 fiscal year, and each fiscal year thereafter, the agency*
22 *shall collect not more than twelve million dollars (\$12,000,000)*
23 *per fiscal year in fees pursuant to this chapter, as adjusted*
24 *pursuant to Section 105456.*

25 (d) The adoption, amendment, or repeal of a regulation for fee
26 assessment and collection, including subsequent amendments or
27 adjustments, authorized by this chapter is hereby exempted from
28 the rulemaking provisions of the Administrative Procedure Act
29 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
30 Division 3 of Title 2 of the Government Code). However, upon
31 adoption, the regulation shall be filed with the Secretary of State
32 and printed in the California Code of Regulations.

33 ~~105458. — (a) It is the intent of the Legislature, in subsequent~~
34 ~~legislation, to appropriate and to deposit into the fund, the total~~
35 ~~sum of one million five hundred thousand dollars (\$1,500,000)~~
36 ~~from the General Fund to the Controller for allocation as loans, to~~
37 ~~the department and the agency, for the purposes of adopting~~
38 ~~regulations to establish the fee schedule authorized by this chapter~~
39 ~~and startup costs related to implementing this chapter. It is the~~
40 ~~intent of the Legislature that the department fully repay the amount~~



1 ~~of this loan with interest at the pooled money investment rate, from~~
2 ~~fees collected pursuant to this chapter within that same fiscal year~~
3 ~~as appropriated so as to yield a revenue-neutral appropriation.~~

4 ~~(b)–~~

5 105458. Costs associated with administration of the program,
6 shall not exceed 15 percent of the entire amount deposited into the
7 fund in any fiscal year.

8
9 Article 5. Reporting

10
11 105459. (a) The department shall provide the public access
12 to information which they are required to release pursuant to the
13 California Public Records Act (Chapter 3.5 (commencing with
14 Section 6250) of Division 7 of Title 1 of the Government Code)
15 in a manner that is timely and understandable to the average
16 person.

17 (b) The division and office shall disseminate biomonitoring
18 findings to the general public via governmental and other Web
19 sites. All health and environmental exposure data shall be
20 provided to the general public in a summary format to protect the
21 confidentiality of program participants. Within 30 calendar days
22 after the division releases its interim and final report to the
23 Legislature, the reports shall be made available to the public.

24 105460. (a) By January 1, 2009, the department shall submit
25 a report to the Legislature summarizing the first activities of the
26 program, including program descriptions, methodology, program
27 outcomes, and assessment of the activities of the various
28 biomonitoring functions conducted pursuant to this chapter.

29 (b) By January 1, 2011, in consultation with the panel, the
30 department shall submit a report to the Legislature regarding
31 recommendations on improving the program based on the first
32 activities and findings. The report shall include a summary of the
33 biennial reports prepared pursuant to Section 105443. The
34 department shall annually, in consultation with the panel, forward
35 a report to the Legislature on the program, policy, and report
36 findings.

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