

AMENDED IN SENATE JUNE 21, 2006

AMENDED IN ASSEMBLY JANUARY 26, 2006

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY MARCH 14, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 289

Introduced by Assembly Member Chan
(Coauthors: Assembly Members Jerome Horton, Koretz, Lieber,
and Pavley)
(Coauthor: Senator Kuehl)

February 9, 2005

An act to add ~~Section 57013~~ *Sections 57013, 57014, and 57015* to the Health and Safety Code, relating to hazardous chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as amended, Chan. Chemicals: testing methods.

Existing law required the California Environmental Protection Agency to initiate a scientific peer review of screening levels for certain contaminants and to complete the process by December 31, 2004. The agency was required to publish, by March 1, 2004, a list of screening numbers determined for specified contaminants, and to conduct public workshops in establishing and revising those levels.

~~This bill would require each manufacturer, upon the request of a state agency, as defined, and with respect to a chemical imported into the state or offered for sale by the manufacturer, an analytical test~~

method for that chemical in a specified matrix, and the octanol-water partition coefficient and bioconcentration product for humans for the chemical. Each manufacturer would be required to provide this information within one year from the date of the request.

This bill would authorize a state agency, as defined, to request a manufacturer, as defined, of a chemical, as defined, to provide the state agency with specified information regarding the chemical. The bill would provide that the information that a state agency may request, includes, but is not limited to, an analytical test method for that chemical in a specified matrix, the octanol-water partition coefficient and bioconcentration product for humans for the chemical, and other information relevant to the environmental and biological fate of the chemical. The bill would require the manufacturer to provide the requested information within one year, and would specify actions that a state agency is required to take before making the request. The bill would provide a procedure for when a manufacturer believes that information provided pursuant to a state agency request involves the release of a trade secret.

Vote: majority. Appropriation: no. 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) Every year more than 55,000,000 pounds of all chemicals
- 4 are released in the state.
- 5 (b) Over 85,000 chemicals are ~~in commercial use~~
- 6 *commercially available* today, and many are ~~now~~ known to cause
- 7 cancer and damage to the brain and the nervous and reproductive
- 8 systems.
- 9 (c) Many of these chemicals do not persist, but instead break
- 10 down in the environment or are metabolized by humans or biota
- 11 into different, more stable compounds, which can be used as
- 12 chemical indicators or biomarkers of exposure to the parent
- 13 compound.
- 14 (d) For a majority of chemicals in use today, the matrix by
- 15 which the chemical is transported into biota and humans is
- 16 unknown and it is impossible to determine the chemical's level in

1 humans. Analytical test methods only exist for approximately 30
2 percent of all chemicals.

3 (e) It costs the federal ~~government~~ and state governments time
4 and money to develop analytical test methods for chemicals or
5 their chemical biomarkers of exposure. It is conservatively
6 estimated that developing analytical test methods for each
7 chemical costs over one hundred thousand dollars (\$100,000).

8 (f) In the interests of human health, it should be the
9 responsibility of those who manufacture ~~a chemical to produce~~
10 ~~analytical test methods to determine the matrices by which that~~
11 ~~chemical is transported into humans and biota, to determine~~
12 ~~which of the breakdown products or metabolites of the chemical~~
13 ~~are best suited to be used as chemical biomarkers of exposure,~~
14 ~~and to disclose these analytical test methods to the state. or~~
15 *import a chemical to provide relevant information on the fate*
16 *and transport of that chemical in environmental and biological*
17 *matrices.*

18 SEC. 2. Section 57013 is added to the Health and Safety
19 Code, to read:

20 57013. (a) For purposes of ~~this section~~ *Sections 57014 and*
21 *57015*, the following definitions shall apply:

22 (1) “Analytical test method” means a procedure used to
23 sample, prepare, and analyze a specific matrix to determine the
24 identity and concentration of a specified chemical and its
25 metabolites and degradation product. An analytical test method
26 shall conform to the standards adopted by the National
27 Environmental Laboratory Accreditation Conference.

28 (2) “Bioconcentration factor” means the concentration of a
29 chemical in an organism divided by its concentration in a test
30 solution or environment.

31 (3) “Chemical” has the same meaning as a chemical substance,
32 as defined in Section 2602 of Title 15 of the United States Code.

33 (4) “*Manufacturer*” means *a person who produces a*
34 *chemical in this state or who imports a chemical into this state,*
35 *for sale in this state.*

36 ~~(4) “Matrix” means~~

37 (5) “*Matrix*” includes, *but is not limited to*, water, air, soil,
38 sediment, sludge, chemical waste, fish, blood, adipose tissue,
39 ~~urine, and breast milk~~ *and urine.*

40 (5)

1 (6) “Octanol-water partition coefficient” means the ratio of the
2 concentration of a chemical in octanol and in water at
3 equilibrium and at a specified temperature.

4 ~~(6) “State agency” means the State Air Resources Board, the~~
5 ~~Department of Food and Agriculture, the State Department of~~
6 ~~Health Services, or the Department of Toxic Substances Control.~~

7 ~~(b) A manufacturer shall provide a state agency, upon the~~
8 ~~request of that state agency, with the following information~~
9 ~~regarding a chemical imported into the state or offered for sale by~~
10 ~~that manufacturer:~~

11 ~~(1) An analytical test method, including metabolites and~~
12 ~~degradation products that are biologically relevant, for that~~
13 ~~chemical in the matrix specified by the state agency.~~

14 ~~(2) The octanol-water partition coefficient and~~
15 ~~bioconcentration product for humans for the chemical.~~

16 ~~(c) A manufacturer shall provide the information that is~~
17 ~~requested pursuant to subdivision (b) to the state agency within~~
18 ~~one year from the date of the request.~~

19 ~~(d) A state agency shall not make more than 50 requests in a~~
20 ~~calendar year pursuant to this section, except in cases of~~
21 ~~emergency or to prevent imminent threats to public health or the~~
22 ~~environment.~~

23 ~~(7) “State agency” means the California Environmental~~
24 ~~Protection Agency, except the Department of Pesticide~~
25 ~~Regulation. The California Environmental Protection Agency~~
26 ~~shall coordinate all requests for information from manufacturers~~
27 ~~on behalf of its boards, departments, and offices, with the~~
28 ~~exception of the Department of Pesticide Regulation.~~

29 ~~SEC. 3. Section 57014 is added to the Health and Safety~~
30 ~~Code, to read:~~

31 ~~57014. (a) A state agency, before requesting any information~~
32 ~~from a manufacturer pursuant to subdivision (b), shall do all of~~
33 ~~the following:~~

34 ~~(1) Post on its Web site a list of chemicals for which it seeks~~
35 ~~information pursuant to subdivision (b).~~

36 ~~(2) Conduct a search for the information it seeks of all known~~
37 ~~public sources of information on the chemicals listed pursuant to~~
38 ~~paragraph (1). All known public sources include public and~~
39 ~~electronically searchable databases maintained by the federal~~

1 government, state governments, and intergovernmental
2 organizations.

3 (3) Contact the manufacturer of chemicals listed pursuant to
4 paragraph (1) to obtain any relevant information that may be
5 held by the manufacturer but is not publicly available.

6 (4) Consult with the manufacturer of chemicals listed pursuant
7 to paragraph (1) to determine what additional information, if
8 any, the manufacturer needs to develop to assist the state agency
9 in evaluating the fate and transport of those chemicals in the
10 relevant matrices.

11 (b) Upon request of a state agency, the manufacturer, within
12 one year, shall provide the state agency with the additional
13 information requested for the specified chemical. The
14 information that the state agency requests may include, but is not
15 limited to, any of the following:

16 (1) An analytical test method, including metabolites and
17 degradation products that are biologically relevant, for that
18 chemical in the matrix specified by the state agency.

19 (2) The octanol-water partition coefficient and
20 bioconcentration product for humans for the chemical.

21 (3) Other information relevant to the environmental and
22 biological fate of the chemical.

23 (c) The definitions in Section 57013 apply to this section.

24 SEC. 4. Section 57015 is added to the Health and Safety
25 Code, to read:

26 57015. (a) Notwithstanding Section 6254.7 of the
27 Government Code, if a manufacturer believes that information
28 provided to a state agency pursuant to Section 57014 involves
29 the release of a trade secret, the manufacturer shall make the
30 disclosure to the state agency and notify the state agency in
31 writing of that belief. In its written notice, the manufacturer shall
32 identify the portion of the information submitted to the state
33 agency that it believes is a trade secret and provide
34 documentation supporting its conclusion.

35 (b) Subject to this section, the state agency shall protect from
36 disclosure a trade secret designated as such by the manufacturer,
37 if that trade secret is not a public record.

38 (c) Upon receipt of a request for the release of information to
39 the public that includes information that the manufacturer has

1 notified the state agency is a trade secret and that is not a public
2 record, the following procedure applies:

3 (1) The state agency shall notify the manufacturer that
4 disclosed the information to the state agency of the request, in
5 writing by certified mail, return receipt requested.

6 (2) The state agency shall release the information to the
7 public, but not earlier than 30 days after the date of mailing the
8 notice of the request for information, unless, prior to the
9 expiration of the 30-day period, the manufacturer obtains an
10 action in an appropriate court for a declaratory judgment that
11 the information is subject to protection under this section or for
12 a preliminary injunction prohibiting disclosure of the
13 information to the public and promptly notifies the state agency
14 of that action. In order to prevent the state agency from releasing
15 the information to the public, the manufacturer shall obtain a
16 declaratory judgment or preliminary injunction within 30 days of
17 filing an action for a declaratory judgment or preliminary
18 injunction.

19 (d) This section does not authorize a manufacturer to refuse to
20 disclose to the state agency information required by Section
21 57014.

22 (e) Any information that a court, pursuant to this section,
23 determines is a trade secret and not a public record, or pending
24 final judgment pursuant to subdivision (c), shall not be disclosed
25 by the state agency to anyone, except to an officer or employee of
26 a city or county, the state, or the United States, or to a contractor
27 with a city or county, or the state, and its employees, if, in the
28 opinion of the state agency, disclosure is necessary and required
29 for the satisfactory performance of a contract, for the
30 performance of work, or to protect the health and safety of the
31 employees of the contractor.

32 (f) The definitions in Section 57013 apply to this section.