

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1360

Introduced by Assembly Member Hancock

February 22, 2005

An act to add Section 25355.1 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, as amended, Hancock. Institutional control sites.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

The Carpenter-Presley-Tanner Hazardous Substance Account Act imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act.

Existing law, the California Land Reuse and Revitalization Act of 2004, authorizes the Department of Toxic Substances Control, the

State Water Resources Control Board, or a California regional water quality control board to enter into an agreement with a landowner to oversee the assessment, cleanup, and reuse of a hazardous substance release site in a manner that is protective of public health and safety and the environment.

This bill would define the term “public health priority site” as a hazardous substance release site that is proposed to be used for certain residential, school, or other specified uses and as to which the department determines that a hazardous substance release on a site presents a potential human health risk to future residents or workers on the site or on adjacent sites under criteria, as specified.

The bill would require the cleanup and approval of future land uses for a site that meets those conditions to be regulated by the department pursuant to the Presley-Carpenter-Tanner Hazardous Substances Account Act or the California Land Reuse and Revitalization Act of 2004. The bill would allow any agency or member of the public to request the department to determine whether a hazardous substance release site is a public health priority site.

This bill would require a person proposing to change the approved use of a site from one other than for residential use, a hospital, or a day care center to one of those uses to seek the department’s approval for the change in use. If the department determines that the proposed change in use requires a higher level of protection, the department may require the applicant to prepare and implement a modified response plan pursuant to the bill. The bill would prohibit the owner of the site from making any changes in use that are inconsistent with the land use control recorded for the site.

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) The appropriate cleanup and redevelopment of brownfields
- 4 and other contaminated properties is vital to the protection of
- 5 human health and safety and the environment and to the
- 6 revitalization of our urban communities.
- 7 (b) Brownfield sites vary in technical complexity and a
- 8 complex site may present risks to human health from different

1 exposure pathways, including air, and may require enforcement
2 of long-term institutional controls, including, operations,
3 maintenance, monitoring, and restrictions on use.

4 (c) These complex brownfield sites need to be administered by
5 personnel with the necessary expertise to evaluate these risks and
6 enforce these controls. If a site is to be converted to residential
7 use, potential health risks and the need for effective institutional
8 controls are even more important.

9 (d) Brownfield sites also vary in controversy in the
10 community. Complex brownfield sites are usually more
11 controversial and require more interaction with the community
12 prior to approval of remedial action activities.

13 (e) It is the intent of the Legislature to assure that these
14 complex sites are regulated in a manner that assures the
15 availability of appropriate agency expertise and necessary
16 processes for approval of cleanup and future land uses.

17 SEC. 2. Section 25355.1 is added to the Health and Safety
18 Code, to read:

19 25355.1. (a) "Public health priority site" means a hazardous
20 substance release site subject to this section that meets both of
21 the following criteria:

22 (1) The site is proposed to be used for any of the uses set forth
23 in paragraph (1) of subdivision (b) of Section 25232.

24 (2) (A) The department determines that a hazardous substance
25 release on the site presents a potential human health risk to future
26 residents or workers on the site or on adjacent sites.

27 (B) A site that would require ongoing engineering or land use
28 controls after cleanup or other removal or remediation is deemed
29 to be a site that presents a potential human health risk to future
30 residents or workers on the site or on adjacent sites. For purposes
31 of this paragraph, a control solely to address groundwater
32 contamination that is not related to the health of future occupants
33 of the site is not a land use control.

34 (b) A person who is proposing ~~any of the uses set forth in~~
35 ~~paragraph (1) of subdivision (b) of Section 25232~~ *to use the site*
36 *or part of the site for residential use, a hospital, or a day care*
37 *center* and who knows of a past or present hazardous substance
38 release on the site shall promptly notify the department so that
39 the department can make the determination set forth in paragraph
40 (2) of subdivision (a).

1 (c) Notwithstanding any other provision of law, the cleanup
2 and restriction of future land use for a public health priority site
3 shall be exclusively regulated by the department pursuant to this
4 chapter or Chapter 6.82 (commencing with Section 25395.60). In
5 determining the appropriate cleanup for the site, the department
6 shall consult with the local regional water quality control board
7 regarding the protection of water quality. Nothing in this section
8 authorizes the department to grant local land use entitlements.

9 (d) This section does not require that a public health priority
10 site be listed pursuant to Section 25356.

11 (e) Any agency or member of the public may request the
12 department to determine whether a hazardous substance release
13 site is a public health priority site.

14 *(f) If the use of a site is approved for other than residential*
15 *use, a hospital, or a day care center, and is later proposed to be*
16 *changed to one of those uses, the applicant for that use change*
17 *shall seek the department's approval for that new use. If the*
18 *department determines that the new use requires a higher level of*
19 *protection, the department may require the preparation and*
20 *implementation of a modified response plan pursuant to this*
21 *section. The owner of the site shall not make any change in use of*
22 *the site that is inconsistent with any land use control recorded for*
23 *the site.*