

Introduced by Senator Simitian

February 17, 2005

An act to amend Section ~~25214.10~~ of the Health and Safety Code, and to amend Sections ~~42476.5~~ and ~~42479~~ of, and to repeal Section ~~42476.6~~ of, ~~42475.4~~ of the Public Resources Code, relating to electronic waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 423, as amended, Simitian. Electronic waste: recycling.

Existing law, the Electronic Waste Recycling Act of 2003, requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. Under existing law, the fees are deposited in the Electronic Waste Recovery and Recycling Account, and are continuously appropriated for the California Integrated Waste Management Board to make electronic waste recovery payments to cover the net cost of an authorized collector in operating a free and convenient system for collecting, consolidating, and transporting covered electronic wastes, and to make electronic waste recycling payments to cover an e-waste recycler's net cost of receiving, processing, and recycling covered electronic waste. Existing law requires the board to annually establish and update, as necessary, statewide electronic waste recycling goals.

This bill would require the board to establish and update those goals in consultation with the Department of Toxic Substances Control.

~~(1) Existing law requires the Department of Toxic Substances Control to adopt regulations to prohibit an electronic device from being sold or offered for sale in this state if the electronic device is prohibited from being sold in the European Union on and after its date~~

of manufacture, due to the presence of certain heavy metals. Existing law requires the department to exclude certain electronic devices from that prohibition and prohibits the department from adopting any regulations that impose any requirements or conditions that are in addition to, or more stringent than, the requirements and conditions expressly authorized by that prohibition. A violation of the hazardous waste control law is a crime.

This bill would delete the requirement regarding the presence of heavy metals as a condition for a device being prohibited from being sold in the European Union. The bill would revise the conditions under which the department may exclude a device from that prohibition, based on compliance with specified requirements or exemptions. The bill would allow the department to impose a requirement or condition that is in addition to, or more stringent than, the requirements and conditions expressly authorized by that prohibition, if the department makes a specified determination. The bill would also allow the department to impose an additional requirement, if the requirement provides a manufacturer with a method of simultaneously complying with that prohibition and other requirements. Since a violation of the department's regulations would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) Existing law, the Electronic Waste Recycling Act of 2003, requires a person who exports covered electronic waste, or a covered electronic device intended for recycling or disposal, to a foreign country, or to another state for ultimate export to a foreign country, to comply with specified notification requirements and make specified demonstrations, including a demonstration with regard to management of the waste in accordance with the decisions and implementing guidelines of the Organization for Economic Cooperation and Development.

This bill would repeal those requirements and would instead require a person who exports covered electronic waste to a foreign country, or to another state for ultimate export to a foreign country, to submit certain notifications to the department at least 60 days prior to export. The bill would also require a person who exports a covered electronic device intended for recycling, to a foreign country, or to another state for ultimate export to a foreign country, to notify the department, as specified. The bill would also make conforming changes.

~~(3) 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-no.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 25214.10 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 *SECTION 1. Section 42475.4 of the Public Resources Code is*
4 *amended to read:*

5 42475.4. (a) The board, *in consultation with the department,*
6 *shall annually establish, and update as necessary, statewide*
7 *recycling goals for covered electronic waste. In implementing*
8 *this section, the board shall do all of the following:*

9 (1) Post on its Web site information on the amount of covered
10 electronic devices sold in the state in the previous year as
11 reported to the board.

12 (2) Post on its Web site information on the amount of covered
13 electronic waste recycled in the state in the previous year as
14 reported to the board.

15 (3) Develop and adopt recycling goals, with input from
16 manufacturers, retailers, covered electronic waste recyclers, and
17 collectors, that reflect projections of covered electronic device
18 sales, rates of obsolescence, and stockpiles.

19 (b) Nothing in this section authorizes the board to establish
20 any recycling rates or dates by which a manufacturer of covered
21 electronic devices shall comply with this chapter, or to impose
22 any other recycling goal or target on a manufacturer of those
23 devices.

24 ~~25214.10. (a) For purposes of this section, “electronic~~
25 ~~device” has the same meaning as a “covered electronic device,”~~
26 ~~as defined in Section 42463 of the Public Resources Code.~~

27 ~~(b) The department shall adopt regulations, in accordance with~~
28 ~~this section, that prohibit an electronic device from being sold or~~
29 ~~offered for sale in this state if the electronic device is prohibited~~

1 from being sold or offered for sale in the European Union on and
2 after its date of manufacture, to the extent that Directive
3 2002/95/EC, adopted by the European Parliament and the
4 Council of the European Union on January 27, 2003, and as
5 amended thereafter by the Commission of European
6 Communities, prohibits that sale.

7 (e) The regulations adopted pursuant to subdivision (b) shall
8 take effect January 1, 2007, or on or after the date Directive
9 2002/95/EC, adopted by the European Parliament and the
10 Council of the European Union on January 27, 2003, takes effect,
11 whichever date is later.

12 (d) The department shall exclude, from the regulations
13 adopted pursuant to this section, the sale of an electronic device
14 if the device would otherwise be prohibited from sale pursuant to
15 subdivision (b) solely due to the presence of one or more
16 substances that are either used in the device to comply with
17 federal or state consumer, health, or safety requirements or are
18 exempted by the European Union under Directive 2002/95/EC or
19 by the Technical Adaptation Committee of the European Union.

20 (e) In adopting regulations pursuant to this section, the
21 department may not require the manufacture or sale of an
22 electronic device that is different than, or otherwise not
23 prohibited by, the European Union under Directive 2002/95/EC,
24 adopted by the European Parliament and the Council of the
25 European Union on January 27, 2003.

26 (f) (1) (A) Except as provided in subparagraphs (B) and (C),
27 the department may not adopt any regulations pursuant to this
28 section that impose any requirements or conditions that are in
29 addition to, or more stringent than, the requirements and
30 conditions expressly authorized by this section.

31 (B) The department may adopt a requirement or condition that
32 the department determines to be necessary to implement and
33 enforce this section.

34 (C) The department may adopt a requirement or condition to
35 implement this section in a manner that is consistent with a
36 European Union member country's requirements adopted
37 pursuant to Directive 2002/95/EC, if the requirement or condition
38 provides a manufacturer with a method of complying with this
39 section and simultaneously complying with that country's
40 requirements.

1 ~~(2) In complying with this subdivision, the department shall~~
2 ~~use, in addition to any other information deemed relevant by the~~
3 ~~department, the published decisions of the Technical Adaptation~~
4 ~~Committee and European Union member states that interpret the~~
5 ~~requirements of Directive 2002/95/EC.~~

6 ~~SEC. 2. Section 42476.5 of the Public Resources Code is~~
7 ~~amended to read:~~

8 ~~42476.5. A person who exports covered electronic waste to a~~
9 ~~foreign country, or to another state for ultimate export to a~~
10 ~~foreign country, shall submit the applicable notifications required~~
11 ~~by Sections 66273.20, 66273.40, and 66273.90 of Title 22 of the~~
12 ~~California Code of Regulations to the department at least 60 days~~
13 ~~prior to export. A person who exports a covered electronic device~~
14 ~~intended for recycling to a foreign country, or to another state for~~
15 ~~ultimate export to a foreign country, shall, at least 60 days prior~~
16 ~~to export notify~~

17 ~~the department of the destination, disposition, contents, and~~
18 ~~volume of the device intended for recycling to be exported~~

19 ~~;~~

20 ~~SEC. 3. Section 42476.6 of the Public Resources Code is~~
21 ~~repealed.~~

22 ~~SEC. 4. Section 42479 of the Public Resources Code is~~
23 ~~amended to read:~~

24 ~~42479. (a) (1) For covered electronic waste collected for~~
25 ~~recycling on and after January 1, 2005, the board shall make~~
26 ~~electronic waste recovery payments and electronic waste~~
27 ~~recycling payments for the collection and recycling of covered~~
28 ~~electronic waste to an authorized collector or covered electronic~~
29 ~~waste recycler, respectively, upon receipt of a completed and~~
30 ~~verified invoice submitted to the board by the authorized~~
31 ~~collector or recycler in the form and manner determined by the~~
32 ~~board.~~

33 ~~(2) To the extent authorized pursuant to Section 42477, a~~
34 ~~covered electronic waste recycler shall make the electronic waste~~
35 ~~recovery payments to an authorized collector upon receipt of a~~
36 ~~completed and verified invoice submitted to the recycler by the~~
37 ~~authorized collector in the form and manner determined by the~~
38 ~~board.~~

1 ~~(b) An e-waste recycler is eligible for a payment pursuant to~~
2 ~~this section only if the e-waste recycler meets all of the following~~
3 ~~requirements:~~

4 ~~(1) The e-waste recycler is in compliance with applicable~~
5 ~~requirements of Chapter 23 of Division 4.5 of Title 22 of the~~
6 ~~California Code of Regulations.~~

7 ~~(2) The e-waste recycler demonstrates to the board that any~~
8 ~~facility utilized by the e-waste recycler for the handling,~~
9 ~~processing, refurbishment, or recycling of covered electronic~~
10 ~~devices meets all of the following standards:~~

11 ~~(A) The facility has been inspected by the department within~~
12 ~~the past 12 months and had been found to be operating in~~
13 ~~conformance with all applicable laws, regulations, and~~
14 ~~ordinances.~~

15 ~~(B) The facility is accessible during normal business hours for~~
16 ~~unannounced inspections by state or local agencies.~~

17 ~~(C) The facility has health and safety, employee training, and~~
18 ~~environmental compliance plans and certifies compliance with~~
19 ~~the plans.~~

20 ~~(D) The facility meets or exceed the standards specified in~~
21 ~~Chapter 1 (commencing with Section 1171) of Part 4 of Division~~
22 ~~2, Division 4 (commencing with Section 3200), and Division 5~~
23 ~~(commencing with Section 6300), of the Labor Code or, if all or~~
24 ~~part of the work is to be performed in another state, the~~
25 ~~equivalent requirements of that state.~~

26 ~~SEC. 5. No reimbursement is required by this act pursuant to~~
27 ~~Section 6 of Article XIII B of the California Constitution because~~
28 ~~the only costs that may be incurred by a local agency or school~~
29 ~~district will be incurred because this act creates a new crime or~~
30 ~~infraction, eliminates a crime or infraction, or changes the~~
31 ~~penalty for a crime or infraction, within the meaning of Section~~
32 ~~17556 of the Government Code, or changes the definition of a~~
33 ~~crime within the meaning of Section 6 of Article XIII B of the~~
34 ~~California Constitution.~~