

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 258

Introduced by Assembly Member Krekorian
(Principal coauthor: Assembly Member Feuer)
(Coauthors: Assembly Members Huffman, Karnette, and Portantino)

February 5, 2007

An act to add Section 30237 to the Public Resources Code, and to add Chapter 5.2 (commencing with Section 13367) to Division 7 of the Water Code, relating to the ~~environment~~ *water quality*.

LEGISLATIVE COUNSEL'S DIGEST

AB 258, as amended, Krekorian. Environment: marine debris: plastic discharges.

~~(1) Existing law, the California Coastal Act of 1976, provides for the maintenance, enhancement, or restoration of the marine environment, where feasible.~~

~~This bill would require the State Coastal Commission, to the extent feasible and within its existing resources: (1) to convene a multiagency task force, consisting of specified representatives from the commission, the Department of Fish and Game, the Department of Conservation, the State Water Resources Control Board, the California Integrated Waste Management Board, the Department of Boating and Waterways, the State Coastal Conservancy, and the San Francisco Bay Conservation and Development Commission, for the purpose of implementing a statewide marine debris reduction effort; and (2) to undertake certain actions, as specified. The bill would also make various legislative findings regarding marine debris.~~

~~(2) Under~~

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The state board and the regional boards prescribe waste discharge requirements for the discharge of waste in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. A person who discharges waste into the waters of the state in violation of waste discharge requirements, or other order or prohibition issued by a regional board or the state board, is required upon the order of that regional board or the state board, to clean up the waste or to abate the effects of the waste. The act authorizes the state board or a regional board to issue a cleanup or abatement order.

This bill would require the state board and the regional boards, by January 1, 2009, to implement a program for the control of discharges of preproduction plastics, as defined, from point and nonpoint sources, including waste discharge, monitoring, and reporting requirements for all that at a minimum, target facilities—handling that handle preproduction plastics and nonpoint sources involved in the transfer of preproduction plastic, and the implementation of specified best management practices for the control of discharges of preproduction plastic by plastic manufacturing, handling, and transportation facilities. The state board would be required to establish criteria for submittal of the no exposure certification by certain plastic manufacturing and processing facilities. A plastic manufacturing and process facility that is given a no exposure certification would not be required to implement the best management practices if all manufacturing, loading, unloading, and storage activities occur within the certified facility, unless required by the state board or a regional board. The bill would require the state board would be required to establish a fee schedule sufficient to pay for the costs of implementing the program.

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:

1 (a) The increasing problem of marine debris is harmful to the
2 marine resources, particularly sensitive species that ingest or
3 become entangled in floating debris.

4 (b) Plastic is the most common type of marine debris,
5 comprising up to 90 percent of floating marine debris.

6 (c) *The problem of plastic marine debris is increasing in*
7 *California and the North Pacific Gyre, where densities of*
8 *microplastics have tripled during the last decade.*

9 (e)
10 (d) Plastics are especially harmful to the marine environment
11 due to their plastics' nondegradable qualities.

12 (e) *Thermoplastic resin pellets, commonly known as "nurdles,"*
13 *plastic powders, and production scrap, all of which have been*
14 *mistaken as food by marine life, are a significant source of beach*
15 *pollution. One survey conducted in the summer of 1998 estimated*
16 *that over 100 million nurdles were polluting Orange County*
17 *beaches alone. This represented over 98 percent of all the pollution*
18 *collected in terms of abundance and 17 percent in terms of weights.*

19 (f) *Plastics can contain potentially harmful constituents such*
20 *as phthalates, bisphenol A, styrene, perfluorooctanoic acid, vinyl*
21 *chloride, and flame retardants.*

22 (g) *Nurdles have been shown to adsorb chemicals from ambient*
23 *seawater. Concentrations of pollutants, such as polychlorinated*
24 *biphenyls and dichlorodiphenyldichloroethylene have been found*
25 *to be up to one million times higher on nurdles than levels detected*
26 *in surrounding seawater.*

27 (h) *Approximately 60 billion pounds of nurdles are*
28 *manufactured annually in the United States alone.*

29 (i) *The presence of resin pellets is not unique to United States*
30 *beaches and waters. Studies have shown an international*
31 *proliferation of nurdles in the marine environment.*

32 (j) *Plastic and other debris litter our beaches and represents a*
33 *threat to California's \$46 billion ocean-dependent,*
34 *tourism-oriented economy, and in certain circumstances may pose*
35 *a public health threat.*

36 (k) *State and local agencies spend millions of dollars per year*
37 *in litter collection.*

38 (l) *The majority of trash capture best management practices,*
39 *such as catch basin inserts, are not designed to capture nurdles.*

1 *The typical mesh in a catch basin insert is five millimeters while*
2 *the nurdles diameter is one to two millimeters.*

3 ~~(d)~~

4 (m) A coordinated effort among state agencies is necessary to
5 create a comprehensive response to reduce the harmful effects of
6 marine debris.

7 ~~(e)~~

8 (n) Increased control over industrial discharges will reduce the
9 amount of plastics entering the aquatic environment.

10 ~~(f)~~

11 (o) Eliminating marine debris from the world’s oceans is a
12 universal goal for government, industry, businesses, and
13 individuals.

14 ~~SEC. 2.— Section 30237 is added to the Public Resources Code,~~
15 ~~to read:~~

16 ~~30237. The commission shall, to the extent feasible and within~~
17 ~~its existing resources, take actions it deems appropriate to address~~
18 ~~the issue of marine debris, including, but not limited to, all of the~~
19 ~~following:~~

20 ~~(a) Increase public awareness of the issue of marine debris~~
21 ~~through public outreach and education.~~

22 ~~(b) Improve coordination and collaboration among public~~
23 ~~agencies, including local governments, to reduce marine debris.~~

24 ~~(c) (1) Convene a multiagency task force for the purpose of~~
25 ~~implementing a statewide marine debris reduction effort.~~
26 ~~Representatives on the task force shall include the Executive~~
27 ~~Director of the commission, or a designee; the Director of Fish~~
28 ~~and Game, or a designee; the Director of Conservation; a member~~
29 ~~of, or the Executive Director of, the State Water Resources Control~~
30 ~~Board as determined by that board; a member of, or the Executive~~
31 ~~Director of, the California Integrated Waste Management Board,~~
32 ~~as determined by that board; the Director of Boating and~~
33 ~~Waterways; a member of, or the Executive Officer of, the State~~
34 ~~Coastal Conservancy, as determined by the conservancy; and a~~
35 ~~member of, or the Executive Director of, the San Francisco Bay~~
36 ~~Conservation and Development Commission, as determined by~~
37 ~~that commission.~~

38 ~~(2) Commencing in 2008, the task force shall submit a~~
39 ~~semiannual written report to the Ocean Protection Council,~~
40 ~~summarizing all of the progress made by public agencies and~~

1 organizations in addressing marine debris, and suggested actions
2 to improve state efforts. The report's findings and
3 recommendations shall be presented to the Ocean Protection
4 Council as part of a noticed public meeting of the council.

5 (d) Seek funding from public and nongovernmental sources to
6 support actions that further the purpose of this section to reduce
7 the introduction of debris into the marine environment.

8 SEC. 3.

9 SEC. 2. Chapter 5.2 (commencing with Section 13367) is added
10 to Division 7 of the Water Code, to read:

11
12 CHAPTER 5.2. PLASTIC DEBRIS ERADICATION PROGRAM

13
14 13367. (a) For purposes of this chapter, "preproduction
15 plastic" includes plastic pellets, plastic resin products, powdered
16 coloring for plastics, plastic additives, plastic materials, and plastic
17 fragments.

18 (b) The state board and the regional boards shall implement a
19 program to control discharges of preproduction plastic from point
20 and nonpoint sources. The

21 (c) *The program control measures shall, at a minimum, include*
22 *waste discharge, monitoring, and reporting requirements for all*
23 *facilities handling that target facilities that handle preproduction*
24 *plastic and nonpoint sources involved in the transfer of*
25 *preproduction plastics.*

26 (e)

27 (d) The program shall, at a minimum, require plastic
28 manufacturing, handling, and transportation facilities to implement
29 best management practices to control discharges of preproduction
30 plastics. ~~Nothing in this chapter limits the authority of the state~~
31 ~~board and the regional boards to establish requirements in addition~~
32 ~~to best management practices for the elimination of discharges of~~
33 ~~preproduction plastic.~~

34 (d) ~~The state board and the regional boards shall establish and~~
35 ~~implement a monitoring and reporting program designed to achieve~~
36 ~~zero discharge of preproduction plastic from facilities handling~~
37 ~~preproduction plastics.~~

38 (e) *At a minimum, the best management practices shall include*
39 *all of the following:*

1 (1) Zero loss containment systems shall be installed at all storm
2 drains that are down-gradient of areas where preproduction plastic
3 is present or transferred. A zero loss containment system is defined
4 as a device or series of devices that traps all particles retained by
5 a one millimeter mesh screen and has a design treatment capacity
6 of not less than the peak flowrate resulting from a one-year,
7 one-hour storm in the subdrainage area.

8 (2) At all points of transfer, preproduction plastic shall be
9 received in completely sealed containers. The container shall be
10 watertight and durable enough so as not to rupture under typical
11 loading and unloading activities.

12 (3) At all points of preproduction plastic storage and transfer,
13 preproduction plastic shall be stored in a manner that prevents
14 discharge. Storage containers must be sealed, watertight, and
15 durable enough so as not to rupture under typical loading and
16 unloading activities.

17 (4) At all points of storage and transfer of preproduction plastic,
18 capture devices shall be in place under all transfer valves and
19 devices used in loading, unloading, or other transfer of
20 preproduction plastic.

21 (5) A facility shall have a vacuum system available for quick
22 cleanup of fugitive preproduction plastic.

23 (f) The state board shall establish criteria for submittal for the
24 no exposure certification requirement by plastic manufacturing
25 and process facilities subject to the national pollutant discharge
26 elimination system permitting requirements pursuant to Section
27 122.26 of Title 40 of the Code of Federal Regulations and the no
28 exposure certification requirements pursuant to Section 122.26(g)
29 of Title 40 of the Code of Federal Regulations.

30 (1) The criteria shall include specific procedures, controls, and
31 best management practices necessary to achieve the zero discharge
32 of preproduction plastic from facilities manufacturing and
33 processing preproduction plastics.

34 (2) The no exposure certification shall be required annually.

35 (3) "No exposure" means that all industrial materials and
36 activities are protected by a storm resistant shelter to prevent
37 exposure to rain, snow, snowmelt, or runoff. Industrial materials
38 and activities include, but are not limited to, material handling
39 equipment or activities, industrial machinery, raw materials,
40 intermediate products, byproducts, and final products, or waste

1 *products. Material handling activities include storage, loading*
2 *and unloading, transportation, or conveyance, of a raw material,*
3 *intermediate product, byproduct, final product, or waste product.*

4 *(g) If a plastic manufacturing and processing facility is given*
5 *a no exposure certification and all manufacturing, loading,*
6 *unloading, and storage activities occur within the certified no*
7 *exposure facility, the facility is not required to implement the best*
8 *management practices pursuant to subdivision (d), unless required*
9 *by the state board or regional boards.*

10 ~~(e)~~

11 *(h) The state board shall establish a fee schedule sufficient to*
12 *pay for the costs of implementing this chapter.*

13 ~~(f)~~

14 *(i) The state board and the regional boards shall implement this*
15 *chapter by January 1, 2009.*

16 *(j) Nothing in this chapter limits the authority of the state board*
17 *or the regional boards to establish requirements in addition to the*
18 *best management practices for the elimination of discharges of*
19 *preproduction plastic.*