

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1879

Introduced by Assembly Members Feuer and Huffman

February 4, 2008

An act to add Article 14 (commencing with Section 25251) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1879, as amended, Feuer. Hazardous materials: toxic substances.
~~Existing~~

(1) Existing law establishes the Department of Toxic Substances Control, in the California Environmental Protection Agency, with powers and duties regarding, among other things, hazardous waste disposal, underground storage of hazardous substances and waste, and the handling and release of hazardous materials.

~~This bill would declare the intent of the Legislature to ensure public health and safety through the adoption of a science-based approach to evaluating the dangers of toxic chemicals in commerce and by authorizing the Department of Toxic Substances Control~~ *authorize the department to regulate the sale of products containing specified chemicals known to be hazardous to the health of California citizens and to the environment or restrict the sale or use of those products to prevent the exposure of individuals or the environment to the specified chemicals. The department would be required to prioritize regulatory action based on specified criteria. The department would be authorized to require a manufacturer of a consumer product containing the specified chemicals to label its product indicating the presence of the*

chemical and health effects associated with the chemical. The department would be required to implement this measure in conformity with applicable federal laws and regulations. Because violation of the regulations adopted by the department pursuant to the bill would be a crime, this bill would impose a state-mandated local program.

(2) 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: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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) Toxic chemicals are inherently hazardous to the health and
4 well-being of all Californians.

5 (b) Toxic chemicals from discarded products harm the California
6 environment and diminish the productive economic sectors such
7 as agriculture and tourism.

8 (c) No comprehensive statewide data exists on the use of toxic
9 chemicals, their toxicological properties, or their content in
10 consumer products.

11 (d) Studies, from states where this data exists, show that more
12 toxic chemicals are incorporated into manufactured products than
13 are released into the environment.

14 (e) The United States Environmental Protection Agency
15 estimates that 600 new hazardous wastesites will be added each
16 month to the existing 77,000 sites between now and 2033.

17 (f) Among children, chemical exposures are estimated to
18 contribute to 100 percent of lead poisoning cases, 10 percent to
19 35 percent of asthma cases, 2 percent to 10 percent of certain
20 cancers, and 5 percent to 20 percent of behavioral disorders.

21 (g) Many toxic chemicals accumulate in the tissues of humans
22 and other organisms, putting them at risk of the adverse effects of
23 chronic, long-term exposure, including cancer and reproductive
24 problems.

1 (h) The people and businesses of the state require current,
2 accurate information regarding the characteristics of chemicals
3 and products that they use, so that they can make informed
4 decisions about the products they use and purchase.

5 (i) Advances in scientific knowledge provide opportunities to
6 modernize methods used to test for potential hazards of chemicals
7 to provide better information.

8 (j) It is important to consider all of the health end points that
9 are relevant to the people of the state in the design and
10 implementation of programs for toxic chemicals.

11 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~
12 ~~to ensure public health and safety through the adoption of a~~
13 ~~science-based approach to evaluating the dangers of toxic~~
14 ~~chemicals in commerce and to provide authority to the Department~~
15 ~~of Toxic Substances Control to regulate the sale of products~~
16 ~~containing chemicals known to be hazardous to the health of~~
17 ~~California's citizens and to the environment.~~

18 *SEC. 2. Article 14 (commencing with Section 25251) is added*
19 *to Chapter 6.5 of Division 20 of the Health and Safety Code, to*
20 *read:*

21
22 *Article 14. Chemicals of Concern in Consumer Products*
23

24 *25251. For the purposes of this article, the following terms*
25 *have the following meanings:*

26 (a) *“Chemical of concern” means phthalates, mercury, lead,*
27 *cadmium, arsenic, polybrominated diphenylethers (PBDEs), and*
28 *hexavalent chromium.*

29 (b) *“Consumer product” means a product or part of the product*
30 *that is used, bought, or leased for use by a person for any purpose.*

31 (c) *“Phthalates” means di-2-ethylhexyl phthalate (DEHP),*
32 *dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisononyl*
33 *phthalate (DINP), diisodecyl phthalate (DIDP), di-n-hexyl*
34 *phthalate (DnHP) or di-n-octyl phthalate (DnOP).*

35 (d) *“Responsible disposal” means a method of disposal that is*
36 *readily accessible to consumers and that prevents individuals or*
37 *the environment from being exposed to a chemical of concern.*

38 (e) *“Restrict” means to establish conditions for use that may*
39 *include, but are not limited to, setting maximum concentrations,*

1 *requiring specific product formulations or configurations, or*
2 *setting provisions for use.*

3 *(f) "Sensitive population" means a group of individuals who*
4 *are particularly sensitive to hazardous chemicals including, but*
5 *not limited to, infants, children, persons with compromised immune*
6 *systems, pregnant women, women who may become pregnant,*
7 *persons with chronic illnesses, persons who bear a substantial*
8 *burden of cumulative chemical exposure, and the elderly.*

9 *25251.1. The department may regulate the use of a chemical*
10 *of concern in a consumer product or restrict the sale or use of a*
11 *product that contains a chemical of concern to prevent the exposure*
12 *of individuals or the environment to the chemical of concern.*

13 *25251.2. (a) For a consumer product manufactured,*
14 *distributed, or sold prior to January 1, 2010, the department may*
15 *do any of the following:*

16 *(1) Require a manufacturer of the consumer product containing*
17 *a chemical of concern to establish a take-back program for*
18 *recycling or responsible disposal of the consumer product and*
19 *establish requirements for the recycling or responsible disposal*
20 *of the consumer product.*

21 *(2) Design approaches to extract chemicals of concern from*
22 *the chain of commerce or from home, work, or school environments*
23 *and provide that the extracted chemicals of concern be recycled*
24 *or managed safely.*

25 *(3) Take other actions the department deems necessary to*
26 *prevent individuals or the environment from being exposed to*
27 *chemicals of concern.*

28 *(b) For consumer products manufactured, distributed, or sold*
29 *after January 1, 2010, the department may do any of the following:*

30 *(1) Require a manufacturer of a consumer product containing*
31 *a chemical of concern to establish a take-back program for*
32 *recycling or responsible disposal of the consumer product and*
33 *establish requirements for the recycling or responsible disposal*
34 *of the consumer product.*

35 *(2) Restrict the use of the chemical of concern in the consumer*
36 *product.*

37 *(3) Prohibit the use of the chemical of concern in the consumer*
38 *product.*

39 *(4) Design approaches to extract chemicals of concern from*
40 *the chain of commerce or from home, work, or school environments*

1 *and provide that the extracted chemicals of concern be recycled*
2 *or managed safely.*

3 *(5) Take other actions the department deems necessary to*
4 *prevent individuals or the environment from being exposed to*
5 *chemicals of concern.*

6 *(c) In selecting an action under subdivision (b), the department*
7 *shall select the action or actions that best meets the purposes of*
8 *this article.*

9 *25251.3. (a) The department shall prioritize regulatory action*
10 *for the following consumer products:*

11 *(1) Those used or designed for use by sensitive populations.*

12 *(2) Those most likely to expose individuals or the environment*
13 *to one or more chemicals of concern.*

14 *(b) In prioritizing the regulatory action pursuant to subdivision*
15 *(a), the department shall consider both of the following:*

16 *(1) The cumulative exposure to one or more chemicals of*
17 *concern through multiple products or from multiple sources,*
18 *including multiple media.*

19 *(2) The synergistic effects of exposure to multiple chemicals of*
20 *concern.*

21 *(c) Consistent with this article, the department shall select*
22 *regulatory actions that best prevent the exposure of individuals to*
23 *the chemicals of concern or the release of a chemical of concern*
24 *into the environment.*

25 *25251.4. The department may require a manufacturer to label*
26 *a consumer product that contains a chemical of concern in ways*
27 *that are understandable to the public and that indicate the presence*
28 *of a chemical of concern and its associated health effect or effects.*

29 *25251.5. The department shall implement this article in*
30 *conformity with applicable federal laws and regulations.*

31 *25251.6. It is the intent of the Legislature, in enacting this*
32 *article, to explicitly specify the department's regulatory authority*
33 *over a consumer product containing a chemical of concern and*
34 *this article does not limit or restrict the department's existing*
35 *regulatory authority over hazardous materials.*

36 *SEC. 3. No reimbursement is required by this act pursuant to*
37 *Section 6 of Article XIII B of the California Constitution because*
38 *the only costs that may be incurred by a local agency or school*
39 *district will be incurred because this act creates a new crime or*
40 *infraction, eliminates a crime or infraction, or changes the penalty*

- 1 *for a crime or infraction, within the meaning of Section 17556 of*
- 2 *the Government Code, or changes the definition of a crime within*
- 3 *the meaning of Section 6 of Article XIII B of the California*
- 4 *Constitution.*

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