

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 256

Introduced by Assembly Member Bill Berryhill

February 11, 2009

An act to amend Section 25503.5 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 256, as amended, Bill Berryhill. Hazardous materials: farms: business plans and inventories.

Existing law generally requires a business that handles a hazardous material to establish and implement a business plan for emergency response to a release or threatened release of a hazardous material, with specified exceptions. Existing law specifies the contents of the business plan, including an inventory, and requires it to be submitted to the administering agency, as defined.

This bill would exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting an agricultural or horticultural commodity from establishing and implementing one of those business plans if the only hazardous materials that the farm has onsite are ~~small~~ *specified* amounts of *lubricating* oils ~~or~~, fertilizers, or ~~small amounts~~ ~~of~~ other hazardous materials that are onsite for less than 10 days at a time.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 25503.5 of the Health and Safety Code
2 is amended to read:
3 25503.5. (a) (1) A business, except as provided in subdivisions
4 (b), (c), and (d), shall establish and implement a business plan for
5 emergency response to a release or threatened release of a
6 hazardous material in accordance with the standards prescribed in
7 the regulations adopted pursuant to Section 25503, if the business
8 handles a hazardous material or a mixture containing a hazardous
9 material that has a quantity at any one time during the reporting
10 year that is any of the following:
11 (A) Equal to, or greater than, a total weight of 500 pounds or a
12 total volume of 55 gallons.
13 (B) Equal to, or greater than, 200 cubic feet at standard
14 temperature and pressure, if the substance is compressed gas.
15 (C) If the substance is a radioactive material, it is handled in
16 quantities for which an emergency plan is required to be adopted
17 pursuant to Part 30 (commencing with Section 30.1), Part 40
18 (commencing with Section 40.1), or Part 70 (commencing with
19 Section 70.1), of Chapter 1 of Title 10 of the Code of Federal
20 Regulations, or pursuant to any regulations adopted by the state
21 in accordance with those regulations.
22 (2) In meeting the requirements of this subdivision, a business
23 may, if it elects to do so, use the format adopted pursuant to Section
24 25503.4.
25 (b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily
26 maintained by a physician, dentist, podiatrist, veterinarian, or
27 pharmacist, at his or her office or place of business, stored at each
28 office or place of business in quantities of not more than 1,000
29 cubic feet of each material at any one time, are exempt from this
30 section and from Section 25505. The administering agency may
31 require a one-time inventory of these materials for a fee not to
32 exceed fifty dollars (\$50) to pay for the costs incurred by the
33 agency in processing the inventory forms.
34 (2) (A) Lubricating oil is exempt from this section and Sections
35 25505 and 25509, for a single business facility, if the total volume
36 of each type of lubricating oil handled at that facility does not
37 exceed 55 gallons and the total volume of all types of lubricating

1 oil handled at that facility does not exceed 275 gallons, at any one
2 time.

3 (B) For purposes of this paragraph, “lubricating oil” means any
4 oil intended for use in an internal combustion crankcase, or the
5 transmission, gearbox, differential, or hydraulic system of an
6 automobile, bus, truck, vessel, plane, heavy equipment, or other
7 machinery powered by an internal combustion or electric powered
8 engine. “Lubricating oil” does not include used oil, as defined in
9 subdivision (a) of Section 25250.1.

10 (3) A business operating a farm for purposes of cultivating the
11 soil or raising or harvesting an agricultural or horticultural
12 commodity is exempt from this section and Sections 25505 and
13 ~~25509 if the only hazardous materials that the farm has onsite are~~
14 ~~small amounts of any of the following:~~

15 ~~(A) Oils.~~

16 ~~(B) Fertilizers.~~

17 ~~(C) Hazardous materials, other than those listed in subparagraphs~~
18 ~~(A) and (B), that are onsite for less than 10 days at a time. 25509~~
19 ~~if the farm has onsite less than 275 gallons of lubricating oils, or~~
20 ~~less than 1,000 pounds of fertilizer or hazardous materials, other~~
21 ~~than lubricating oil or fertilizer, those are the only hazardous~~
22 ~~materials onsite, and those hazardous materials are onsite for less~~
23 ~~than 10 days at a time.~~

24 (c) (1) Hazardous material contained solely in a consumer
25 product for direct distribution to, and use by, the general public is
26 exempt from the business plan requirements of this chapter unless
27 the administering agency has found, and has provided notice to
28 the business handling the product, that the handling of certain
29 quantities of the product requires the submission of a business
30 plan, or any portion thereof, in response to public health, safety,
31 or environmental concerns.

32 (2) In addition to the authority specified in paragraph (4), the
33 administering agency may, in exceptional circumstances, following
34 notice and public hearing, exempt from the inventory provisions
35 of this chapter a hazardous substance specified in subdivision (p)
36 of Section 25501 if the administering agency finds that the
37 hazardous substance would not pose a present or potential danger
38 to the environment or to human health and safety if the hazardous
39 substance was released into the environment. The administering
40 agency shall specify in writing the basis for granting an exemption

1 under this paragraph. The administering agency shall send a notice
2 to the office within five days from the effective date of an
3 exemption granted pursuant to this paragraph.

4 (3) The administering agency, upon application by a handler,
5 may exempt the handler, under conditions that the administering
6 agency determines to be proper, from a portion of the business
7 plan, upon a written finding that the exemption would not pose a
8 significant present or potential hazard to human health or safety
9 or to the environment or affect the ability of the administering
10 agency and emergency rescue personnel to effectively respond to
11 the release of a hazardous material, and that there are unusual
12 circumstances justifying the exemption. The administering agency
13 shall specify in writing the basis for an exemption under this
14 paragraph.

15 (4) The administering agency, upon application by a handler,
16 may exempt a hazardous material from the inventory provisions
17 of this chapter upon proof that the material does not pose a
18 significant present or potential hazard to human health and safety
19 or to the environment if released into the workplace or
20 environment. The administering agency shall specify in writing
21 the basis for an exemption under this paragraph.

22 (5) An administering agency shall exempt a business operating
23 a farm for purposes of cultivating the soil or raising or harvesting
24 an agricultural or horticultural commodity from filing the
25 information in the business plan required by subdivisions (b) and
26 (c) of Section 25504 if all of the following requirements are met:

27 (A) The handler annually provides the inventory of information
28 required by Section 25509 to the county agricultural commissioner
29 before January 1 of each year.

30 (B) Each building in which hazardous materials subject to this
31 chapter are stored is posted with signs, in accordance with
32 regulations that the office shall adopt, that provide notice of the
33 storage of any of the following:

- 34 (i) Pesticides.
- 35 (ii) Petroleum fuels and oil.
- 36 (iii) Types of fertilizers.

37 (C) Each county agricultural commissioner forwards the
38 inventory to the administering agency within 30 days from the
39 date of receipt of the inventory.

- 1 (6) The administering agency shall exempt a business operating
2 an unstaffed remote facility located in an isolated sparsely
3 populated area from the hazardous materials business plan and
4 inventory requirements of this article if the facility is not otherwise
5 subject to the requirements of applicable federal law, and all of
6 the following requirements are met:
- 7 (A) The types and quantities of materials onsite are limited to
8 one or more of the following:
 - 9 (i) Five hundred standard cubic feet of compressed inert gases
10 (asphyxiation and pressure hazards only).
 - 11 (ii) Five hundred gallons of combustible liquid used as a fuel
12 source.
 - 13 (iii) Two hundred gallons of corrosive liquids used as
14 electrolytes in closed containers.
 - 15 (iv) Five hundred gallons of lubricating and hydraulic fluids.
 - 16 (v) Twelve hundred gallons of flammable gas used as a fuel
17 source.
 - 18 (B) The facility is secured and not accessible to the public.
 - 19 (C) Warning signs are posted and maintained for hazardous
20 materials pursuant to the California Fire Code.
 - 21 (D) A one-time notification and inventory is provided to the
22 administering agency along with a processing fee in lieu of the
23 existing fee. The fee shall not exceed the actual cost of processing
24 the notification and inventory, including a verification inspection
25 if necessary.
 - 26 (E) If the information contained in the initial notification or
27 inventory changes and the time period of the change is longer than
28 30 days, the notification or inventory shall be resubmitted within
29 30 days to the administering agency to reflect the change, along
30 with a processing fee, in lieu of the existing fee, that does not
31 exceed the actual cost of processing the amended notification or
32 inventory, including a verification inspection, if necessary.
 - 33 (F) The administering agency shall forward a copy of the
34 notification and inventory to those agencies that share responsibility
35 for emergency response.
 - 36 (G) The administering agency may require an unstaffed remote
37 facility to submit a hazardous materials business plan and inventory
38 in accordance with this article if the agency finds that special
39 circumstances exist such that development and maintenance of the

1 business plan and inventory is necessary to protect public health
2 and safety and the environment.

3 (d) Onpremise use, storage, or both, of propane in an amount
4 not to exceed 300 gallons that is for the sole purpose of heating
5 the employee working areas within that business is exempt from
6 this section, unless the administering agency finds, and provides
7 notice to the business handling the propane, that the handling of
8 the onpremise propane requires the submission of a business plan,
9 or a portion thereof, in response to public health, safety, or
10 environmental concerns.

11 (e) The administering agency shall provide all information
12 obtained from completed inventory forms, upon request, to
13 emergency rescue personnel on a 24-hour basis.

14 (f) The administering agency shall adopt procedures to provide
15 for public input when approving an application submitted pursuant
16 to paragraph (3) or (4) of subdivision (c).

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