

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1173

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Portantino and Torlakson)
(Coauthor: Senator DeSaulnier)

February 27, 2009

An act to add Chapter 7.3 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to recycling, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Huffman. Recycling: ~~compact fluorescent lamps~~; *residential fluorescent lamps.*

The ~~existing~~ California Lighting Efficiency and Toxics Reduction Act prohibits, on and after January 1, 2010, except for certain specified circumstances, a person from manufacturing, selling, or offering for sale in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive, as specified.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient, cost-effective manner to conserve water, energy, and other natural resources.

This bill would prohibit the distribution of moneys from energy efficiency investment funds or any other funds generated from

usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to any entity for the purchase and distribution of compact fluorescent lamps, unless the compact fluorescent lamps meet certain specifications, and the ~~manufacturer or distributor~~ *manufacturer* of the compact fluorescent lamps has *either, individually or collectively*, implemented a *residential fluorescent lamp* recycling program or *the manufacturer or distributor* has agreed to pay an amount ~~at a level necessary to provide sufficient funds for the requirements of the program for every lamp, as specified, for each residential fluorescent lamp, as defined, sold in this state~~ for which funding is received into the Fluorescent Lamp Recycling Fund. The bill would prohibit the distribution of moneys from ~~energy efficiency investment funds or any other~~ funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to a retailer, unless the retailer has agreed to provide the public an in-store collection opportunity for the recycling of ~~compact residential~~ fluorescent lamps.

The bill would require the manufacturers of residential fluorescent lamps sold in this state to individually or collectively submit to the board a residential fluorescent lamp recycling plan within 90 days of receiving the funds generated from usage-based charges. The residential fluorescent lamp recycling program described in the plan would be required to contain certain elements and be implemented no later than 2 months after board approval or plan adoption. The bill would require the board to establish an administrative fee to be paid by the manufacturers to cover the cost of reviewing and approving the plans and of oversight and enforcement of the program.

This bill would establish the *Residential Fluorescent Lamp Recycling Fund* in the State Treasury, *as a continuously appropriated fund thereby making an appropriation.* ~~The bill would require the money to be used to make payments to retailer-based collectors, local governments, and other approved collectors of fluorescent lamps generated by households in the state. The Department of Toxic Substances Control would be required to administer the fund.~~ *The bill would require the board to administer the fund and use the moneys to fund the activities of a nonprofit public benefit corporation established by persons designated by the board. The nonprofit public benefit corporation would be required to engage in several activities, including, but not limited to, organizing convenient and free collection opportunities for residential fluorescent lamps, providing compensation for the collection and recycling of*

residential fluorescent lamps by approved collectors and recyclers, and conducting consumer and retailer education and outreach efforts.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Fluorescent Lamp Toxics Reduction and Recycling Act.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) California policy, including the California Lighting
6 Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes
7 of 2007), has put California on a path of transition from
8 incandescent lamps to more energy-efficient lighting, including
9 substantially increased utilization of fluorescent lighting.

10 (2) Many existing lighting choices contain toxic materials. Most
11 fluorescent lighting products contain mercury. Most incandescent
12 lighting products contain lead. California prohibits disposing of
13 lighting products containing hazardous levels of metal in the solid
14 waste stream. The hazardous material in waste lighting products
15 can be reduced and managed through recycling, but recycling
16 opportunities are currently inconvenient or nonexistent for most
17 consumers.

18 (3) Fluorescent lighting products delivering the same level of
19 light at the same level of efficiency can have varying levels of
20 mercury. The Department of General Services has adopted a
21 procurement preference favoring low-mercury fluorescent lamps.

22 (4) In 2007, the Legislature enacted the California Lighting
23 Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes
24 of 2007), which directed the Department of Toxic Substances
25 Control (DTSC) to convene a lighting task force to consider and
26 make policy recommendations to the Legislature for designing a
27 statewide collection program for end-of-life fluorescent lights. On
28 September 1, 2008, the task force submitted recommendations to
29 the Legislature on the need and options for a convenient statewide
30 system for the collection and recycling of fluorescent lamps for
31 residential generators.

1 (b) It is the intent of the Legislature to have an established
 2 system for the recycling of residential generated fluorescent lamps
 3 that is free and convenient for end users.

4 SEC. 3. Chapter 7.3 (commencing with Section 42420) is added
 5 to Part 3 of Division 30 of the Public Resources Code, to read:

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 7
 8

CHAPTER 7.3. FLUORESCENT LAMPS

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10 ~~42420. (a) Moneys from energy efficiency investment funds~~
 11 ~~or any other funds generated from usage-based charges on~~
 12 ~~electricity distribution that are provided by California's retail sellers~~
 13 ~~of electricity shall not be distributed to any entity for the purchase~~
 14 ~~and distribution of compact fluorescent lamps, unless all of the~~
 15 ~~following conditions exist:~~

16 (1) ~~All compact fluorescent lamps purchased are qualified as~~
 17 ~~the most recent ENERGY STAR version listed on the ENERGY~~
 18 ~~STAR Internet Web site.~~

19 (2) ~~The manufacturer or distributor of the compact fluorescent~~
 20 ~~lamps has done either of the following:~~

21 (A) ~~Implemented a comprehensive recycling program for~~
 22 ~~compact fluorescent lamps approved by the Department of Toxic~~
 23 ~~Substances Control.~~

24 (B) ~~Agreed to pay an amount established pursuant to Section~~
 25 ~~42421, for each compact fluorescent lamp for which funding is~~
 26 ~~received into the Fluorescent Lamp Recycling Fund established~~
 27 ~~pursuant to Section 42421.~~

28 (b) ~~Moneys from energy efficiency investment funds or any~~
 29 ~~other funds generated from usage-based charges on electricity~~
 30 ~~distribution that are provided by California's retail sellers of~~
 31 ~~electricity shall not be distributed to a retailer, unless the retailer~~
 32 ~~for a compact fluorescent light program has agreed to provide the~~
 33 ~~public with a convenient in-store collection opportunity for the~~
 34 ~~recycling of compact fluorescent lamps.~~

35 ~~42421. (a) Any payments collected pursuant to subparagraph~~
 36 ~~(B) of paragraph (2) of subdivision (a) of Section 42420 shall be~~
 37 ~~deposited into the Fluorescent Lamp Recycling Fund, which is~~
 38 ~~hereby created in the State Treasury.~~

39 (b) ~~The fund and this section shall be administered by the~~
 Department of Toxic Substances Control.

1 ~~(e) Moneys in the fund shall be used to make payments to~~
2 ~~retailer-based collectors, local governments, and other approved~~
3 ~~collectors of fluorescent lamps generated by households in this~~
4 ~~state.~~

5 ~~(d) The amount of payments established pursuant to this section~~
6 ~~shall be at a level sufficient to cover the average cost of collecting~~
7 ~~and properly recycling residentially generated fluorescent lamps~~
8 ~~and to encourage public, private, and nonprofit entities to establish~~
9 ~~convenient locations for that collection.~~

10 ~~(e) The amount of the payments established pursuant to~~
11 ~~subparagraph (B) of paragraph (2) of subdivision (a) of Section~~
12 ~~42420 shall be at a level necessary to provide sufficient funds for~~
13 ~~the requirements of this section.~~

14 *42420. For the purposes of this chapter, the following terms*
15 *have the following meanings:*

16 *(a) "Consumer" means a purchaser or owner of residential*
17 *fluorescent lamps, excluding a business, corporation, limited*
18 *partnership, nonprofit organization, or governmental entity.*

19 *(b) "Distributor" means a person that has a contractual*
20 *relationship with one or more manufacturers to market and sell*
21 *fluorescent lamps to retailers.*

22 *(c) "Manufacturer" means any person who, on or after the*
23 *effective date of this act, and regardless of the selling technique*
24 *used, including by means of remote sale, does one or more of the*
25 *following:*

26 *(1) Manufactures fluorescent lamps under its own brand for*
27 *sale in this state.*

28 *(2) Manufactures fluorescent lamps for sale in this state without*
29 *affixing a brand.*

30 *(3) Resells in this state fluorescent lamps produced by other*
31 *suppliers under its own brand or label.*

32 *(4) Imports or exports fluorescent lamps into the United States*
33 *that are sold in this state. If a company from which an importer*
34 *purchases the merchandise has a United States presence, assets,*
35 *or both, that company, and not the importer, shall be deemed to*
36 *be the manufacturer.*

37 *(d) "Residential fluorescent lamps" means compact fluorescent*
38 *lamps and any other fluorescent lamp intended for household use.*

39 *(e) "Retailer" means a person that sells fluorescent lamps in*
40 *the state to a consumer. A sale includes, but is not limited to,*

1 *transactions conducted through sales outlets, catalogs, or the*
2 *Internet or any other similar electronic means.*

3 *(f) “Program” means a system for the collection, transportation,*
4 *processing, and disposal of fluorescent lamps that is financed, as*
5 *well as managed or provided, by a manufacturer or collectively*
6 *with other manufacturers.*

7 *42421. (a) Moneys from funds generated from usage-based*
8 *charges on electricity distribution, including, but not limited to,*
9 *energy efficiency investment funds, that are provided by*
10 *California’s retail sellers of electricity, as defined in subdivision*
11 *(g) of Section 399.12 of the Public Utilities Code, shall not be*
12 *distributed to any entity for the purchase and distribution of*
13 *compact fluorescent lamps, unless all of the following conditions*
14 *exist:*

15 *(1) All compact fluorescent lamps purchased are qualified as*
16 *the most recent ENERGY STAR version listed on the ENERGY*
17 *STAR Internet Web site, except that if the California Environmental*
18 *Protection Agency establishes standards on mercury levels, energy*
19 *efficiency, and lamp life that are more stringent than ENERGY*
20 *STAR for compact fluorescent lamps, the compact fluorescent*
21 *lamps purchased are required to meet the California*
22 *Environmental Protection Agency standards.*

23 *(2) One of the following requirements are met:*

24 *(A) The manufacturer, individually or collectively with other*
25 *manufacturers, is implementing a board-approved comprehensive*
26 *residential fluorescent lamp recycling program to manage*
27 *end-of-life residential fluorescent lamps in an environmentally*
28 *sound fashion, including collection, transportation, processing,*
29 *and disposal.*

30 *(B) A manufacturer or distributor not covered by a program*
31 *implemented pursuant to subparagraph (A) is paying an amount*
32 *established pursuant to Section 42424, for each residential*
33 *fluorescent lamp sold in this state for which funding is received*
34 *into the Residential Fluorescent Lamp Recycling Fund established*
35 *pursuant to Section 42424.*

36 *(3) Packaging for the subsidized compact fluorescent lamps*
37 *sold in this state shall have a label, approved by the board,*
38 *informing consumers that disposing of fluorescent lamps in the*
39 *solid waste stream is prohibited and providing access to*
40 *information on opportunities for proper recycling.*

1 (b) Moneys from funds generated from usage-based charges on
2 electricity distribution, including, but not limited to, energy
3 efficiency investment funds, that are provided by California's retail
4 sellers of electricity, as defined in subdivision (g) of Section 399.12
5 of the Public Utilities Code, shall not be distributed to a retailer
6 for a residential fluorescent lamp program, unless the retailer has
7 agreed to provide the public with a convenient in-store collection
8 opportunity for the recycling of residential fluorescent lamps.

9 (c) The board shall work with manufacturers, distributors,
10 retailers, and other stakeholders to develop a uniform label that
11 can be affixed or displayed on subsidized compact fluorescent
12 lamps sold in this state to meet the requirements of paragraph (3)
13 of subdivision (a).

14 42422. (a) To meet the requirement of subparagraph (A) of
15 paragraph (2) of subdivision (a) of Section 42421, a manufacturer
16 of residential fluorescent lamps sold in this state shall, individually
17 or collectively with other manufacturers, submit a residential
18 fluorescent lamp recycling plan in accordance with this section
19 to the board within 90 days of receiving funds generated from
20 usage-based charges on electricity distribution.

21 (b) The plan shall demonstrate sufficient funding for the
22 residential fluorescent lamp recycling program, as described in
23 the plan.

24 (c) The plan shall be free and convenient to all consumers.

25 (d) The plan shall address the coordination of the residential
26 fluorescent lamp recycling program with local household
27 hazardous waste programs, including contracting for the costs for
28 residential fluorescent lamps collected by the household hazardous
29 waste programs, where practical.

30 (e) The plan shall include consumer and retail education and
31 outreach efforts to promote the source reduction and recycling of
32 residential fluorescent lamps. Manufacturers may organize and
33 coordinate education and outreach efforts with retail sellers of
34 electricity. Education and outreach efforts may include, but are
35 not limited to, developing, and updating as necessary, educational
36 and other outreach materials aimed at retailers of residential
37 fluorescent lamps. Those materials shall be made available to the
38 retailers. The materials may include, but are not limited to, one
39 or more of the following:

1 (1) Signage that is prominently displayed and easily visible to
2 the consumer.

3 (2) Written materials and templates of materials for
4 reproduction by retailers to be provided to the consumer at the
5 time of purchase or delivery, or both. Written materials shall
6 include information on the prohibition of improper disposal of
7 residential fluorescent lamps.

8 (3) Advertising or other promotional materials, or both, that
9 include references to residential fluorescent lamp recycling
10 opportunities.

11 (f) Two months after a plan is approved by the board or adopted
12 pursuant to subdivision (a) of Section 42423, whichever is later,
13 a manufacturer shall implement the residential fluorescent lamp
14 recycling program described in the approved or adopted plan.

15 (g) Within one year of implementing an approved or adopted
16 plan, and each year thereafter, a manufacturer of fluorescent lamps
17 sold in this state shall, individually or collectively with other
18 manufacturers, submit a report to the board describing its
19 residential fluorescent lamp recovery efforts.

20 42423. (a) The board shall review and approve the residential
21 fluorescent lamp recycling plan within 90 days of receipt. A plan
22 not acted upon by the board within 90 days shall be deemed
23 adopted.

24 (b) The board shall review the annual report required pursuant
25 to Section 42422 and within 90 days of receipt shall adopt a finding
26 of compliance or noncompliance with the provisions of this act.

27 (c) The board shall enforce this chapter.

28 (d) The board shall establish administrative fees to be paid by
29 manufacturers to cover the cost of reviewing and approving plans
30 and the cost of oversight and enforcement of the residential
31 fluorescent lamp recycling program.

32 42424. (a) The initial amount to be collected from a
33 manufacturer and distributor of residential fluorescent lamps
34 pursuant to subparagraph (B) of paragraph (2) of subdivision (a)
35 of Section 42421 shall be five million dollars (\$5,000,000) divided
36 by the total number of fluorescent lamps for which energy efficiency
37 investment funds were paid in 2008, paid in equal shares.

38 (b) On and after January 1, 2011, the amount to be collected
39 from a manufacturer or distributor of residential fluorescent lamps
40 pursuant to subparagraph (B) of paragraph (2) of subdivision (a)

1 of Section 42421 shall be the total amount of funds projected to
2 be needed to make the payments pursuant to subdivision (d), and
3 the amount needed to cover the costs of implementing a successful
4 residential fluorescent lamp recycling program pursuant to Section
5 42425, divided by the total number of fluorescent lamps for which
6 energy efficiency investment funds were paid in the previous year,
7 paid in equal shares. The total amount collected shall not exceed
8 10 million dollars (\$10,000,000).

9 (c) (1) Any amount collected from a manufacturer or distributor
10 of residential fluorescent lamps pursuant to subparagraph (B) of
11 paragraph (2) of subdivision (a) of Section 42421 shall be
12 deposited into the Residential Fluorescent Lamp Recycling Fund
13 which is hereby created in the State Treasury.

14 (2) Notwithstanding Section 13340 of the Government Code,
15 the money in the fund is hereby continuously appropriated to the
16 board for the purposes of carrying out this chapter.

17 (d) Moneys in the fund shall be used to make payments to
18 retailer-based collectors, local governments, and other approved
19 collectors and recyclers of residential fluorescent lamps generated
20 by households in this state.

21 (e) The amount of payments established pursuant to this section
22 shall be at a level sufficient to cover the average cost of collecting
23 and properly recycling residentially generated fluorescent lamps
24 and to encourage public, private, and nonprofit entities to establish
25 convenient locations for that collection.

26 (f) The amount of the payments established pursuant to
27 subparagraph (B) of paragraph (2) of subdivision (a) of Section
28 42421 shall be at a level necessary to provide sufficient funds for
29 the requirements of this section and Section 42425.

30 42425. (a) (1) The board shall designate persons to establish
31 a non-profit public benefit corporation. The corporation shall be
32 solely responsible for managing a cost-efficient and
33 environmentally sound collection, transportation, processing, and
34 disposal system for residential fluorescent lamps.

35 (2) The corporation shall be funded by the board using moneys
36 from the Residential Fluorescent Lamp Recycling Fund.

37 (b) Specific responsibilities of the corporation shall include,
38 but are not limited to, the following:

1 (1) Organizing, administering, and ensuring that residential
2 fluorescent lamp collection opportunities are available and
3 provided in a manner that is free and convenient to all consumers.

4 (2) Encouraging the use of existing collection and consolidation
5 infrastructures for handling residential fluorescent lamps to the
6 extent that the infrastructure is accessible on a regular and ongoing
7 basis, is cost effective, and meets environmentally sound
8 management requirements.

9 (3) Providing compensation for the collection and recycling of
10 residential fluorescent lamps, by approved collectors and recyclers
11 whether by local government, for-profit corporations, nonprofit
12 corporations, retailers, manufacturers, or any other party, for the
13 reasonable costs associated with these activities.

14 (4) (A) Conducting consumer and retailer education and
15 outreach efforts to promote the source reduction and recycling of
16 residential fluorescent lamps. The corporation may organize and
17 coordinate education and outreach efforts with retail sellers of
18 electricity.

19 (B) Education and outreach efforts may include, but are not
20 limited to, developing, and updating as necessary, educational
21 and other outreach materials aimed at retailers of residential
22 fluorescent lamps. Those materials shall be made available to the
23 retailers and may include, but are not limited to, one or more of
24 the following:

25 (i) Signage that is prominently displayed and easily visible to
26 the consumer.

27 (ii) Written materials and templates of materials for
28 reproduction by retailers to be provided to the consumer at the
29 time of purchase or delivery, or both. Written materials shall
30 include information on the prohibition of improper disposal of
31 residential fluorescent lamps.

32 (iii) Advertising or other promotional materials, or both, that
33 include references to residential fluorescent lamp recycling
34 opportunities.

35 (5) Submitting a report to the board annually on the
36 implementation of the system during the previous calendar year.
37 The report shall be posted on the corporation's Internet Web site
38 and shall include all of the following:

39 (A) A list of all manufacturers participating in the system and
40 the total amount collected.

- 1 (B) A list of all parties participating in the system whom the
2 corporation has designated as approved to receive payments, the
3 amount of payments it has made to those parties, and the purpose
4 of those payments.
- 5 (C) The total number of residential fluorescent lamps collected
6 the previous year.
- 7 (D) A summary of funds expended by the following categories:
8 (i) Education.
9 (ii) Administration.
10 (iii) Collection.
11 (iv) Transportation.
12 (v) Recycling.
13 (vi) Disposal.
14 (vii) Other.
- 15 (E) Any surplus funds carried forward.
- 16 (F) A complete listing of all collection sites and the amount of
17 material collected at each site.
- 18 (6) Maintaining an Internet Web site with up-to-date listings of
19 where consumers can bring residential fluorescent lamps for
20 recycling.