

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE JULY 23, 2009

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, Salas, and Torlakson)
(Coauthor: Senator DeSaulnier)

February 27, 2009

An act to *amend Section 25210.9 of the Health and Safety Code, and to add Chapter 7.3 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to recycling hazardous materials.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Huffman. ~~Recycling: residential fluorescent lamps.~~ *Hazardous materials: florescent lamps; recycling.*

The 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.

This bill, on and after January 1, 2011, would prohibit the sale or offering for sale in this state of luminaires and lighting fixtures that are

intended for general lighting purposes and contain preheat ballasts for operation of preheat linear fluorescent lamps.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, ~~is required to reduce, recycle, and reuse~~ *requires reduction, recycling, and reuse* of 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~~ *manufacturer* for the purchase and distribution of compact fluorescent lamps, unless the compact fluorescent lamps meet certain specifications, and the manufacturer of the compact fluorescent lamps, individually ~~or~~, collectively with other manufacturers, or through a stewardship organization, has implemented a residential fluorescent lamp recycling program for each residential fluorescent lamp, as defined, ~~sold in this state. The bill would require the board, on July 1, 2010, and semiannually thereafter, to post on its Internet Web site a notice listing manufacturers that do not meet the above requirements. sold by retailers selling the manufacturer's subsidized lamps.~~ The bill would prohibit the distribution of moneys from funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to a retailer, *except moneys provided to a retailer through a manufacturer*, unless the retailer has agreed to provide the public an in-store collection opportunity for the recycling of residential fluorescent lamps. *The bill would prohibit manufacturers and retailers from using funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity for recycling activities.*

The bill would require the manufacturers of residential fluorescent lamps sold in this state, individually ~~or~~, collectively with other manufacturers, or through a stewardship organization, to ~~develop~~ *establish* and maintain a residential fluorescent lamp recycling program containing specified elements within 90 days of receiving the funds generated from usage-based charges. The bill would require a manufacturer, individually ~~or~~, collectively with other manufacturers, or through a stewardship organization, to submit an annual report on the implementation of the residential fluorescent lamp recycling

program. The bill would require the board to establish an administrative fee, *not to exceed \$5,000 per manufacturer and bearing a reasonable relationship to actual costs*, to be paid by the manufacturers to cover the cost of reviewing and approving the annual report and of oversight and enforcement of 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. 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

1 system for the collection and recycling of fluorescent lamps for
2 residential generators.

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

6 *SEC. 3. Section 25210.9 of the Health and Safety Code is*
7 *amended to read:*

8 25210.9. (a) Except as provided in subdivisions (e), (f), and
9 (g), on and after January 1, 2010, a person shall not manufacture
10 general purpose lights for sale in this state that contain levels of
11 hazardous substances that would result in the prohibition of those
12 general purpose lights being sold or offered for sale in the European
13 Union pursuant to the RoHS Directive.

14 (b) Except as provided in subdivisions (e), (f), and (g), on and
15 after January 1, 2010, a person shall not sell or offer for sale in
16 this state a general purpose light under any of the following
17 circumstances:

18 (1) The general purpose light being sold or offered for sale was
19 manufactured on and after January 1, 2010, and contains levels of
20 hazardous substances that would result in the prohibition of that
21 general purpose light being sold or offered for sale in the European
22 Union pursuant to the RoHS Directive.

23 (2) The manufacturer of the general purpose light sold or being
24 offered for sale fails to provide the documentation to the
25 department required by subdivision (h).

26 (3) The manufacturer of the general purpose light being sold or
27 offered for sale does not provide the certification required in
28 subdivision (i).

29 (c) For the purposes of this section, "RoHS Directive" means
30 Directive 2002/95/EC, adopted by the European Parliament and
31 the Council of the European Union on January 27, 2003, on the
32 restriction of certain hazardous substances in electrical and
33 electronic equipment, as amended thereafter by the Commission
34 of European Communities (13.2.2003 Official Journal of the
35 European Union).

36 (d) The department shall determine the products covered by the
37 RoHS Directive by reference to authoritative guidance published
38 by the United Kingdom implementing the RoHS Directive in that
39 country.

1 (e) (1) Except as provided in ~~paragraph (2)~~ *paragraphs (2) and*
2 *(3)*, subdivisions (a), (b), (h), and (i) do not apply to high output
3 and very high output linear fluorescent lamps greater than 32
4 millimeters in diameter and preheat linear fluorescent lamps.

5 (2) On or after January 1, 2014, the department shall determine,
6 in consultation with companies that manufacture lamps specified
7 in paragraph (1) in the United States, if those lamps should be
8 subject to the requirements of subdivisions (a), (b), (h), and (i),
9 taking into consideration changes in lamp design or manufacturing
10 technology that will allow for the removal or reduction of mercury.

11 (3) *On and after January 1, 2011, new luminaires and lighting*
12 *fixtures intended for general lighting purposes and containing*
13 *preheat ballasts for operation of preheat linear florescent lamps*
14 *shall not be sold or offered for sale in this state.*

15 (f) On and after January 1, 2012, for high intensity discharge
16 lamps and compact fluorescent lamps greater than nine inches in
17 length, subdivisions (a), (b), (h), and (i) shall be applicable.

18 (g) On and after January 1, 2014, for state-regulated general
19 service incandescent lamps and enhanced spectrum lamps as
20 defined in subdivision (k) of Section 1602 of Title 20 of the
21 California Code of Regulations, subdivisions (a), (b), (h), and (i)
22 shall be applicable.

23 (h) A manufacturer of general purpose lights sold or being
24 offered for sale in California shall prepare and, at the request of
25 the department, submit within 28 days of the date of the request,
26 technical documentation or other information showing that the
27 manufacturer's general purpose lights sold or offered for sale in
28 this state comply with the requirements of the RoHS Directive.

29 (i) A manufacturer of general purpose lights sold or being
30 offered for sale in California shall provide, upon request, a
31 certification to a person who sells or offers for sale that
32 manufacturer's general purpose lights. The certification shall attest
33 that the general purpose lights do not contain levels of hazardous
34 substances that would result in the prohibition of those general
35 purpose lights being sold or offered for sale in California.
36 Alternatively, the manufacturer may display the certification
37 required by this subdivision prominently on the shipping container
38 or on the packaging of general purpose lights.

39 (j) The department may adopt regulations to implement and
40 administer this article.

1 ~~SEC. 3.~~

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

4
5 CHAPTER 7.3. FLUORESCENT LAMPS
6

7 42420. For the purposes of this chapter, the following terms
8 have the following meanings:

9 (a) “Board” means the California Integrated Waste
10 Management Board.

11 ~~(a)~~
12 (b) “Consumer” means a purchaser or owner of residential
13 fluorescent lamps, excluding a business, corporation, limited
14 partnership, nonprofit organization, or governmental entity.

15 ~~(b) “Distributor” means a person that has a contractual~~
16 ~~relationship with one or more manufacturers to market and sell~~
17 ~~fluorescent lamps to retailers.~~

18 (c) “Manufacturer” means any person who, on or after the
19 effective date of this act, and regardless of the selling technique
20 used, including by means of remote sale, does one or more of the
21 following:

22 (1) Manufactures fluorescent lamps under its own brand for sale
23 in this state.

24 (2) Manufactures fluorescent lamps for sale in this state without
25 affixing a brand.

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

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

33 (d) “Residential fluorescent lamps” means compact fluorescent
34 lamps and any other fluorescent lamp intended for ~~household~~
35 *residential* use.

36 (e) “Residential fluorescent lamp recycling program” means a
37 system for the collection, transportation, recycling, and proper
38 disposal of fluorescent lamps that is financed, as well as managed
39 or provided, by a manufacturer *receiving funds pursuant to the*

1 *program described in Section 42421, individually, collectively*
2 *with other manufacturers, or through a stewardship organization.*

3 (f) “Retailer” means a person that sells subsidized fluorescent
4 lamps intended for residential use in the state to a consumer. A
5 sale includes, but is not limited to, transactions conducted through
6 sales outlets, catalogs, or the Internet or any other similar electronic
7 means.

8 (g) “Stewardship organization” means ~~a nonprofit an~~
9 organization that implements and administers the residential
10 fluorescent lamp recycling program.

11 42421. (a) (1) Moneys from funds generated from usage-based
12 charges on electricity distribution, including, but not limited to,
13 energy efficiency investment funds, that are provided by
14 ~~California’s retail sellers of electricity, as defined in subdivision~~
15 ~~(g) of Section 399.12 of the Public Utilities Code, shall not be~~
16 *California’s electrical corporations and local publicly owned*
17 *electric utilities, as defined in Sections 218 and 224.3 of the Public*
18 *Utilities Code, respectively, shall not be distributed to any entity*
19 *manufacturer for the purchase and distribution of compact*
20 *fluorescent lamps, unless all of the following conditions exist:*

21 ~~(A) All compact fluorescent lamps purchased are qualified as~~
22 ~~the most recent ENERGY STAR version listed on the ENERGY~~
23 ~~STAR Internet Web site, except that if the Department of Toxic~~
24 ~~Substances Control establishes standards on mercury levels that~~
25 ~~are more stringent than ENERGY STAR for compact fluorescent~~
26 ~~lamps, the compact fluorescent lamps purchased are required to~~
27 ~~meet the Department of Toxic Substances Control standards.~~

28 ~~(B) The manufacturer, individually collectively with other~~
29 ~~manufacturers or through a stewardship organization, establishes~~
30 ~~and maintains a comprehensive residential fluorescent lamp~~
31 ~~recycling program to manage end-of-life residential fluorescent~~
32 ~~lamps in an environmentally sound fashion, including collection,~~
33 ~~transportation, processing, and disposal.~~

34 *(A) All compact fluorescent lamps purchased are qualified as*
35 *the most recent ENERGY STAR version listed on the ENERGY*
36 *STAR Internet Web site, and contain no more mercury than the*
37 *amount referenced in the most recent ENERGY STAR version, or*
38 *four milligrams of mercury for any basic lamp of up to 25 watts,*
39 *whichever is less.*

1 (B) The manufacturer, individually, collectively with other
2 manufacturers, or through a stewardship organization, establishes
3 and maintains a comprehensive residential fluorescent lamp
4 recycling program for all residential lamps sold by retailers selling
5 the manufacturer's subsidized lamps, to manage end-of-life
6 residential fluorescent lamps in an environmentally sound fashion,
7 including collection, transportation, recycling, and proper disposal.
8 Collection of end-of-life residential fluorescent lamps may occur
9 through a variety of collection methodologies and locations.

10 (C) Packaging for the subsidized compact fluorescent lamps
11 sold in this state shall have a label informing consumers that
12 disposing of fluorescent lamps in the solid waste stream is
13 prohibited and providing access to information on opportunities
14 for proper recycling.

15 ~~(2) The manufacturer, individually or collectively with other~~
16 ~~manufacturers through or a stewardship organization, may contract~~
17 ~~with a retailer for in-store or out-of-store collection of end-of-life~~
18 ~~residential fluorescent lamps.~~

19 ~~(3) The prohibition in paragraph (1) shall be effective on the~~
20 ~~120th day after the notice described in subdivision (d) listing a~~
21 ~~manufacturer is posted on the board's Internet Web site and shall~~
22 ~~remain in effect until the manufacturer is no longer listed on the~~
23 ~~board's Internet Web site or the manufacturer has obtained a~~
24 ~~certification letter pursuant to subdivision (e).~~

25 (2) The manufacturer, individually, collectively with other
26 manufacturers, or through a stewardship organization, may
27 contract with a retailer for in-store or out-of-store collection of
28 end-of-life residential fluorescent lamps.

29 (b) Moneys from funds generated from usage-based charges on
30 electricity distribution, including, but not limited to, energy
31 efficiency investment funds; that are provided by California's retail
32 sellers of electricity, as defined in subdivision (g) of Section 399.12
33 electrical corporations and local publicly owned electric utilities,
34 as defined in Sections 218 and 224.3 of the Public Utilities Code,
35 respectively, shall not be distributed from a utility directly to a
36 retailer for a residential fluorescent lamp program, unless the
37 retailer has agreed to provide the public with a convenient in-store
38 collection opportunity for the recycling of residential fluorescent
39 lamps. This requirement shall not apply to those moneys provided
40 to a retailer through a manufacturer.

1 ~~(c) On July 1, 2010, and semiannually thereafter, the board shall~~
2 ~~post on its Internet Web site a notice listing manufacturers that are~~
3 ~~not in compliance with conditions set forth in paragraph (1) of~~
4 ~~subdivision (a).~~

5 ~~(d) Manufacturers that have been listed pursuant to subdivision~~
6 ~~(d), but can demonstrate to the satisfaction of the board that they~~
7 ~~are in compliance with conditions set forth in paragraph (1) of~~
8 ~~subdivision (a) may request a certification letter from the board to~~
9 ~~that effect. The letter shall constitute compliance with those~~
10 ~~conditions.~~

11 ~~(e) A retailer shall monitor the board's Internet Web site to~~
12 ~~determine if the sale of a manufacturer's subsidized compact~~
13 ~~fluorescent lamps is in compliance with this article.~~

14 *(c) Moneys from funds generated from usage-based charges on*
15 *electricity distribution, including, but not limited to, energy*
16 *efficiency investment funds, that are provided by California's*
17 *electrical corporations and local publicly owned electric utilities,*
18 *as defined in Sections 218 and 224.3 of the Public Utilities Code,*
19 *respectively, shall not be used to fund manufacturer or retailer*
20 *recycling activities required under this chapter.*

21 42422. (a) To meet the requirement of ~~paragraph (2)~~
22 ~~subparagraph (B) of paragraph (1) of subdivision (a) of Section~~
23 ~~42421, a manufacturer of residential fluorescent lamps sold in this~~
24 ~~state shall, individually individually, or collectively with other~~
25 ~~manufacturers, or through a stewardship organization, establish~~
26 ~~and maintain a residential fluorescent lamp recycling program, as~~
27 ~~defined in subdivision (e) of Section 42420, in accordance with~~
28 ~~this section within 90 days of receiving funds generated from~~
29 ~~usage-based charges on electricity distribution.~~

30 (b) The program shall demonstrate sufficient funding.

31 (c) The program shall be free and convenient to all consumers.

32 (d) The program shall include education and outreach efforts
33 to promote the proper management of end-of-life fluorescent lamps.
34 Education and outreach efforts may include, but are not limited
35 to, any of the following:

36 (1) Developing and updating as necessary, educational and other
37 outreach materials aimed at retailers of residential fluorescent
38 lamps. Those materials shall be made available to the retailers.
39 The materials may include, but are not limited to, one or more of
40 the following:

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

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

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

11 (2) Strategizing with retail sellers of electricity to encourage
12 their participation in the collection and proper management of
13 end-of-life fluorescent lamps. These strategies may include the
14 inclusion of an educational insert in their customers' utility bills.

15 (3) Encourage in-store collection by retailers and other outlets.

16 (e) Within one year of implementing a residential fluorescent
17 lamp recycling program, and annually thereafter, a manufacturer
18 of residential fluorescent lamps, individually, collectively with
19 other manufacturers, or through a stewardship organization, shall
20 submit an annual report to the board describing its residential
21 fluorescent lamp recovery efforts. The report shall be posted on
22 the manufacturer's Internet Web site. The annual report shall
23 include all of the following:

24 (1) A list of all manufacturers participating in the program.

25 (2) The total number of end-of-life fluorescent lamps collected
26 in California during the previous year *under the residential*
27 *fluorescent lamp recycling program implemented by that*
28 *manufacturer*.

29 (3) A complete listing of all participating collection sites.

30 (4) A description of the methods used to collect, transport,
31 recycle, and dispose of end-of-life fluorescent lamps.

32 (5) A description of the outreach strategies employed to increase
33 participation and collection rates.

34 (6) Examples of the outreach and educational materials used.

35 (7) The total cost of implementing the residential fluorescent
36 lamp recycling program by the following categories:

37 (A) Outreach and education.

38 (B) Administration.

39 (C) Collection, transportation, recycling, and disposal.

1 ~~42423. (a) The board shall review the annual report required~~
2 ~~pursuant to Section 42422 and within 90 days of receipt shall adopt~~
3 ~~a finding of compliance or noncompliance with the provisions of~~
4 ~~this act.~~

5 ~~(b) The board shall enforce this chapter.~~

6 ~~(c) The board shall establish administrative fees to be paid by~~
7 ~~manufacturers to cover the cost of reviewing and approving the~~
8 ~~annual report and the cost of oversight and enforcement of the~~
9 ~~residential fluorescent lamp recycling program.~~

10 42423. (a) *The board shall review the annual report required*
11 *pursuant to Section 42422 and within 90 days of receipt shall*
12 *adopt a finding of compliance or noncompliance with the*
13 *provisions of this act.*

14 **(b) Prior to adopting a finding of compliance or noncompliance,**
15 **the board shall notify manufacturers that it believes are not in**
16 **compliance with the conditions set forth in paragraph (1) of**
17 **subdivision (a) of Section 42421 and provide the manufacturer**
18 **with an opportunity to cure its noncompliance within 30 days or**
19 **a meaningful opportunity to be heard as to why it believes the**
20 **finding of noncompliance is in error. If the manufacturer does not**
21 **persuade the board that it is in compliance after this process, the**
22 **board shall post on its Internet Web site a notice listing**
23 **manufacturers that are not in compliance.**

24 **(c) Manufacturers that have been listed pursuant to subdivision**
25 **(b), but can demonstrate to the satisfaction of the board that they**
26 **are in compliance with the conditions set forth in paragraph (1)**
27 **of subdivision (a) of Section 42421, may request a certification**
28 **letter from the board to that effect. The letter shall constitute**
29 **compliance with those conditions.**

30 **(d) The board shall enforce this chapter.**

31 **(e) The board shall establish administrative fees to be paid by**
32 **manufacturers receiving funds pursuant to the program described**
33 **in Section 42421 to cover the cost of reviewing and approving the**
34 **annual report and the cost of oversight and enforcement of the**
35 **residential fluorescent lamp recycling program. The fee shall not**
36 **exceed five thousand dollars (\$5,000) per manufacturer and shall**
37 **bear a reasonable relationship to actual costs.**