

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2176**

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**Introduced by Assembly Member Blumenfield**

February 18, 2010

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An act to add Article 10.03 (commencing with Section 25210.13) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2176, as amended, Blumenfield. Hazardous waste: lighting products.

(1) Existing law, the California Lighting Efficiency and Toxics Reduction Act, administered by the Department of Toxic Substances Control, prohibits a person from manufacturing for sale or selling in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive. A violation of the hazardous waste control law is a crime.

This bill would enact the California Lighting Toxics Reduction and Jobs Act and would define terms, including defining a "class 1 lamp" as a lamp containing mercury and a "class 2 lamp" as a lamp that produces less than a specified amount of light per watt.

The bill would require the producer of a class 1 lamp, by September 30, 2011, to submit a product stewardship plan with regard to the collection of class 1 lamps to the department, either individually or jointly with other producers, or by entering into an agreement with a

stewardship organization. The bill would require the plan to reasonably demonstrate how the program would contribute to the recycling of all class 1 lamps, including the program's fair share of orphan lamps, on or before January 1, 2020. The department would be required to approve the plan pursuant to a specified procedure and the producer would be required to implement the approved plan by January 1, 2012. The bill would provide for the updating of the plan and would require the plan operator, by April 1, 2013, and on or before each April 1 annually thereafter, to prepare and submit to the department a report for the immediately preceding reporting period.

The bill would require an entity submitting a plan to enter into an agreement with the department to pay the costs incurred by the department associated with the review and enforcement of the plan. The bill would require the funds to be deposited in the Lighting Product Stewardship Subaccount, which the bill would establish in the Hazardous Waste Control Account, and would authorize the department to expend the funds in the Lighting Product Stewardship Subaccount, upon appropriation by the Legislature, for those costs.

The bill would require the producer of a class 2 lamp, by January 30, 2012, and on or before January 1 annually thereafter, to pay to the commission a fee in an amount established by the commission pursuant to a specified procedure. The commission would be required to deposit the fee revenues in the Energy Efficiency Research Fund, which the bill would create in the State Treasury, and the commission would be authorized to expend the funds in the Energy Efficiency Research Fund, upon appropriation by the Legislature, for specified research and projects relating to improving class 2 lamps' lighting efficiency and reducing environmental impacts from class 2 lamps.

The bill would prohibit a producer, wholesaler, or retailer from selling or offering for sale a class 1 lamp or class 2 lamp to a person in this state on and after January 1, 2012, unless, with regard to the class 1 lamp, the producer is participating in a product stewardship program, or, on or after February 1, 2012, with regard to a class 2 lamp, unless the producer has paid the required fee. The bill would also specify procedures for the enforcement of the act. Since a violation of the hazardous waste control laws is a crime, the bill would impose a state-mandated local program by creating a new crime.

(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: yes.  
State-mandated local program: 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) The state's policy, including the California Lighting  
4 Efficiency and Toxics Reduction Act, which added Article 10.02  
5 (commencing with Section 25210.9) to Chapter 6.5 of Division  
6 20 of the Health and Safety Code, has put the state on a path of  
7 transition to more energy-efficient lighting, including substantially  
8 increased utilization of fluorescent lighting.

9 (b) Lighting products introduce hazardous waste into the  
10 environment by containing hazardous substances, such as mercury,  
11 in the lighting product itself, and by the release of hazardous  
12 substances from the production of energy, which the lighting  
13 product utilizes.

14 (c) Electricity generation, particularly from coal, releases  
15 mercury into the atmosphere, which contaminates waterways and  
16 fish, causing a public health risk.

17 (d) The less efficient a lamp is, the more hazardous waste,  
18 including mercury, is released into the atmosphere from the  
19 electricity generation associated with its use.

20 (e) High-efficiency bulbs, such as compact fluorescent lamps,  
21 contain mercury within the product but because these bulbs use  
22 less energy, they are responsible for smaller hazardous emissions  
23 from energy production.

24 (f) Low-efficiency bulbs, such as incandescent bulbs, contain  
25 no mercury but are responsible for greater hazardous substance  
26 emissions from energy production.

27 (g) Low-efficiency bulbs also cause greater emissions of  
28 greenhouse gases and other harmful air pollutants. The efficiency  
29 of a lamp is a reasonable indicator of its total environmental impact.

30 (h) The state prohibits the disposal of lighting products  
31 containing hazardous levels of metal in the solid waste stream.

32 (i) The hazardous waste generated by waste lighting products  
33 can be reduced and managed through recycling, but recycling

1 opportunities are currently inconvenient or nonexistent for most  
2 consumers.

3 (j) Even though some types of fluorescent lighting products  
4 deliver the same level of light at the same level of efficiency as  
5 other types of these products, they may have varying levels of  
6 mercury. The Department of General Services has adopted a  
7 procurement preference favoring low-mercury fluorescent lamps.

8 (k) In 2007, the Legislature enacted the California Lighting  
9 Efficiency and Toxics Reduction Act which directed the  
10 Department of Toxic Substances Control to convene a lighting  
11 task force to consider and make policy recommendations to the  
12 Legislature for designing a statewide collection program for  
13 end-of-life fluorescent lamps.

14 (l) On September 1, 2008, the task force submitted  
15 recommendations to the Legislature on the need and options for a  
16 convenient statewide system for the collection and recycling of  
17 fluorescent lamps for residential generators.

18 (m) The purpose of this act is to establish a system for the  
19 recycling of fluorescent lamps generated by households and small  
20 businesses that is free and convenient for end users and to promote  
21 the rapid development and uptake of more efficient and  
22 low-toxicity lighting products to minimize the public health impacts  
23 from lighting.

24 (n) The responsibility for the end-of-life management of  
25 products and materials rests primarily with the producers who  
26 designed and profited from the product, thereby incorporating life  
27 cycle costs into the total product costs to reduce the impact on the  
28 taxpayers and ratepayers of the state and reduce the impact on  
29 human health and the environment.

30 (o) (1) The imposition of the fee pursuant to Section 25210.20  
31 of the Health and Safety Code would not result in the imposition  
32 of a tax within the meaning of Article XIII A of the California  
33 Constitution because the amount and nature of the fee have a fair  
34 and reasonable relationship to the environmental, public health,  
35 and societal burdens imposed by the use of inefficient lamps and  
36 there is a sufficient nexus between the fees imposed and the use  
37 of those fees to support programs.

38 (2) There is a clear nexus between the type and the amount of  
39 the fees imposed pursuant to this act and the environmental, public  
40 health, and societal costs resulting from inefficient lamps.

1 (3) It is the intent of the Legislature that the fees imposed  
2 pursuant to Section 25210.20 of the Health and Safety Code be  
3 consistent with the California Supreme Court’s decision in Sinclair  
4 Paint. Co. v. State Bd. of Equalization (1997) 15 Cal.4th 866.

5 SEC. 2. Article 10.03 (commencing with Section 25210.13)  
6 is added to Chapter 6.5 of Division 20 of the Health and Safety  
7 Code, to read:

8  
9 Article 10.03. California Lighting Toxics Reduction and Jobs  
10 in Recycling Act  
11

12 25210.13. For the purposes of this article, the following terms  
13 have the following meanings:

14 (a) “Brand” means a name, symbol, word, or mark that identifies  
15 a product, rather than its components, and attributes the product  
16 to the owner of the brand as the producer.

17 (b) “Commission” means the State Energy Resources  
18 Conservation and Development Commission.

19 (c) “Covered entity” means the residential end user of a class  
20 1 lamp who delivers not more than 15 class 1 lamps to a collection  
21 site or service operating pursuant to an approved product  
22 stewardship program for class 1 lamps.

23 (d) “Covered lamp” means all lamps defined under “class 1  
24 lamps” and “class 2 lamps,” either individually or as an item within  
25 a covered lamp category, including all materials that make up the  
26 covered product.

27 (1) “Class 1 lamp” means a lamp containing mercury.

28 (2) “Class 2 lamp” means a lamp that produces fewer than 45  
29 lumens per watt.

30 (3) A lamp that is both a class 1 lamp and a class 2 lamp shall  
31 be subject to all of the requirements that apply to those lamps.

32 (e) “Lamp” has the same meaning as “general purpose lights,”  
33 as defined in Section 25210.10.

34 (f) “Orphan lamp” means a covered lamp that meets any of the  
35 following conditions:

36 (1) The covered lamp lacks a producer’s brand.

37 (2) The producer of that covered lamp is no longer in business  
38 and has no successor in interest.

39 (3) The covered lamp bears a brand for which the department  
40 cannot identify an owner.

1 (g) “Plan operator” means a producer who either individually  
2 or jointly with other producers, implement the product stewardship  
3 program plan approved by the department pursuant to Section  
4 25210.16, or, if the producer enters into an agreement with a  
5 product stewardship organization to submit the plan, on the  
6 producer’s behalf, the product stewardship program that  
7 implements the plan approved by the department pursuant to  
8 Section 25210.16.

9 (h) “Producer” shall be determined, with regard to a covered  
10 lamp, as one of the following:

11 (1) The person who manufactures the covered lamp and who  
12 sells, offers for sale, or distributes the product in the state under  
13 the manufacturer’s own brand.

14 (2) If there is no person who sells, offers for sale, or distributes  
15 the covered lamp in the state under the person’s own name or  
16 brand, the producer of the covered lamp is the owner or licensee  
17 of a trademark under which a product is sold or distributed in state,  
18 whether or not the trademark is registered.

19 (3) If there is no person who is a producer of the covered lamp  
20 for purposes of paragraph (1) or (2), the producer of the covered  
21 lamp is the person who imports the covered lamp into the state for  
22 sale or distribution.

23 (i) “Product stewardship” means the requirement imposed  
24 pursuant to this article upon a producer of a class 1 lamp to manage  
25 and reduce adverse safety, health, and environmental impacts of  
26 the class 1 lamp throughout the life cycle of the covered lamp,  
27 including financing and providing for the collection, transporting,  
28 reusing, recycling, processing, and final disposition of the class 1  
29 lamp.

30 (j) “Product stewardship plan” or “plan” means the detailed  
31 plan prepared pursuant to Section 25210.15 describing the manner  
32 in which a product stewardship program will be implemented.

33 (k) “Product stewardship program” or “program” means a  
34 program established pursuant to this article pursuant to a product  
35 stewardship plan that is financed and managed or provided by the  
36 producer of a class 1 lamp and that includes

37 provisions for the collection, transportation, recycling, processing  
38 and final disposition of class 1 lamps, including the collection and  
39 recycling of the program’s fair share of orphan lamps, as specified  
40 in subdivision (c) of Section 25210.15.

1 (l) “Reporting period” means the period commencing January  
2 1 and ending December 31 in the same calendar year.

3 (m) “Residuals” means nonrecyclable materials left over from  
4 processing an unwanted covered product.

5 (n) “Retailer” means a person who offers covered lamps for  
6 retail sale, as defined in Section 6007 of the Revenue and Taxation  
7 Code, through any means including, but not limited to, remote  
8 offerings such as sales outlets, catalogs, or the Internet, but does  
9 not include a sale that is a wholesale transaction between a  
10 distributor and a retailer.

11 (o) “Stakeholder” means a person who may have an interest in  
12 or be affected by a product stewardship program.

13 (p) “Stewardship organization” is an entity appointed by a  
14 producer to act as an agent on behalf of the producer to administer  
15 a product stewardship program.

16 (q) “Unwanted product” means a covered lamp that is no longer  
17 wanted, has been abandoned or discarded, or is intended to be  
18 discarded by its owner.

19 (r) “Wholesale sale” means a sale that is not a retail sale, as  
20 defined in Section 6007 of the Revenue and Taxation Code.

21 (s) (1) “Wholesaler” means a person who engages in the sale  
22 of covered lamps for resale, in a sale that is a wholesale sale.

23 (2) If a person is a producer of a covered lamp and also a  
24 wholesaler, the person shall comply with the provisions of this  
25 article that apply to producers.

26 25210.14. (a) This article shall be known, and may be cited,  
27 as the California Lighting Toxics Reduction and Jobs in Recycling  
28 Act.

29 (b) The Legislature hereby finds and declares that it is the intent  
30 of this article to require the recycling of all unwanted class 1 lamps,  
31 including orphan lamps, by January 1, 2020, through expanded  
32 public education and the development of a comprehensive, safe,  
33 and convenient collection system that includes use of residential  
34 curbside collection programs, mail-back containers, increased  
35 support for household hazardous waste facilities, and a network  
36 of additional collection locations.

37 25210.15. (a) On or before September 30, 2011, a producer  
38 of a class 1 lamp shall submit a product stewardship program plan  
39 to the department in accordance with this section.

1 (b) A producer shall either individually or jointly with other  
2 producers, submit a product stewardship program plan pursuant  
3 to this section or may enter into an agreement with a stewardship  
4 organization to submit, on the producer's behalf, a product  
5 stewardship program pursuant to this section.

6 (c) The product stewardship *program* plan submitted to the  
7 department shall meet all of the following requirements:

8 (1) Include information, including full contact information,  
9 regarding all of the following:

10 (A) The organization submitting the plan.

11 (B) A list of all participating producers and their brands  
12 including a trademark, if applicable.

13 (C) If the program is to be operated by a stewardship  
14 organization, a description of management, administration, and  
15 tasks to be performed by the stewardship organization.

16 (2) Include a collection system, including all of the following:

17 (A) Location of collection sites and other collection services to  
18 be used by the program.

19 (B) How unwanted products from all covered entities will be  
20 collected in all cities in the state with populations greater than  
21 10,000 and in all counties of the state.

22 (C) How collected unwanted products will be transported to  
23 processing facilities.

24 (3) Include educational and outreach efforts, including, but not  
25 limited to, all of the following:

26 (A) A public service announcement promoting the proper  
27 management for class 1 lamps, which shall include providing a  
28 copy of the public service announcement to the department and  
29 posting the public service announcement on the stewardship  
30 organization or producer's Internet Web site.

31 (B) The establishment of a public Internet Web site, which shall  
32 include the posting of templates of all educational materials on the  
33 Internet Web site that is in a form and format that can be easily  
34 downloaded, and providing a link to the Internet Web site to the  
35 department.

36 (C) Methods to engage other stakeholders, such as waste,  
37 demolition, and lighting retailers and contractors, and appropriate  
38 state agencies and local governments to secure support and  
39 participation to encourage the proper management of class 1 lamps  
40 throughout the state.

1 (D) Strategies to work with utilities participating in energy  
2 conservation programs involving the replacement of old lighting  
3 technologies for new class 1 lamps and to encourage their  
4 participation in the collection and proper management of class 1  
5 lamps.

6 (E) Strategies to encourage support and participation by retailers  
7 and other outlets to educate consumers on the proper management  
8 of class 1 lamps.

9 (4) Include a processing and disposal system, which shall meet  
10 all of the following requirements:

11 (A) All class 1 lamps collected by the system shall be recycled.

12 (B) The mercury and mercury-bearing residuals from recycling  
13 of class 1 lamps collected by the system shall be ~~disposed of at a~~  
14 ~~mercury repository, issued a permit pursuant to this chapter, or~~  
15 ~~managed at a hazardous waste facility operating in accordance~~  
16 *stored at a mercury repository or disposed or recycled at a*  
17 *permitted hazardous waste treatment, storage, or disposal facility*  
18 *that is operating in accordance with this chapter.*

19 (C) The plan shall include the locations, permit status, and record  
20 of any penalties, violations, or regulatory orders received in the  
21 previous five years by processing and disposal facilities proposed  
22 to be used by the program, including all downstream processing  
23 and disposal facilities handling hazardous waste generated under  
24 the program and those involved in the final disposition of the  
25 hazardous waste.

26 (D) The processing and disposal system shall collect, free of  
27 charge, unwanted class 1 lamps from covered entities for reuse,  
28 recycling, processing, and final disposition.

29 (E) The processor of the class 1 lamps subject to the plan shall  
30 submit an annual report to the department in a format provided by  
31 the department that includes the number and type of class 1 lamps  
32 received.

33 (F) The processor of the class 1 lamps subject to the plan shall  
34 agree to allow the department, or its designee, to inspect, audit, or  
35 review audits of processing and disposal facilities used to fulfill  
36 the requirements of a product stewardship program.

37 (G) Federal or state prison labor shall not be used for processing  
38 class 1 lamps subject to the plan.

39 (5) Include a description of the financing system to cover the  
40 entire product stewardship program, including how costs will be

1 apportioned among, and assessed upon, producers participating in  
2 the program. The plan shall require the producer, group of  
3 producers, or stewardship organization to pay all administrative  
4 and operational costs associated with the program.

5 (6) Include plans for minimizing the environmental impacts of  
6 the covered lamp throughout the product's life cycle.

7 (7) Include a list of collection sites and other collection services  
8 to be used by the program, sorted by city and county.

9 (8) Reasonably demonstrate how the product stewardship  
10 program will contribute toward achieving the goal of recycling all  
11 unwanted class 1 lamps, including the collection and recycling of  
12 the program's fair share of orphan lamps, on or before January 1,  
13 2020.

14 (9) Comply with the regulations for managing universal waste  
15 contained in Chapter 23 (commencing with Section 66273.1) of  
16 Division 4.5 of Title 22 of the California Code of Regulations, as  
17 applicable.

18 25210.16. (a) Within 60 days after receiving a proposed  
19 product stewardship plan pursuant to Section 25210.15, the  
20 department shall determine whether the plan complies with this  
21 article.

22 (b) If the department approves the plan, the department shall  
23 notify the applicant of its approval.

24 (c) If the department rejects a plan, the department shall notify  
25 the applicant of its decision and its reasons for rejecting the plan.  
26 An applicant whose plan has been rejected by the department shall  
27 submit a revised plan to the department within 60 days after  
28 receiving notice of the rejection to maintain compliance with this  
29 article.

30 (d) On or before January 1, 2012, a producer shall either  
31 individually or jointly with other producers, implement the product  
32 stewardship program plan approved by the department, or, if the  
33 producer enters into an agreement with a stewardship organization  
34 to submit the plan, on the producer's behalf, the product  
35 stewardship program shall, on or before January 1, 2012,  
36 implement the plan approved by the department pursuant to this  
37 section.

38 25210.17. (a) At least once every four years, the plan operator  
39 shall update the product stewardship plan approved by the

1 department pursuant to Section 25205.16 and shall submit the  
2 updated plan to the department for review.

3 (b) The department shall determine the status of an updated plan  
4 within 60 days of its submittal. If the department rejects an updated  
5 plan, the department shall notify the plan operator, who shall  
6 resubmit the plan within 60 days of that notification. If the plan is  
7 not resubmitted within that time period, the plan operator and the  
8 producer subject to the plan shall be deemed in violation of this  
9 article.

10 (c) A proposed change to a product stewardship plan shall be  
11 submitted to the department for approval, except for the following:

12 (1) Additions or changes to collection locations for unwanted  
13 products.

14 (2) Additions of producers to a product stewardship program.

15 (d) The plan operator shall inform the department of changes  
16 specified in subdivision (c) no less than 15 days before the changes  
17 occur.

18 25210.18. (a) On or before April 1, 2013, and on or before  
19 each April 1 annually thereafter, the plan operator shall prepare  
20 and submit to the department a report for the immediately  
21 preceding reporting period describing all of the following:

22 (1) Information, including full contact information, regarding  
23 all of the following:

24 (A) The organization submitting the report.

25 (B) A list of all participating producers and their brands and  
26 trademarks, if applicable.

27 (2) The recovery rates of the class 1 lamps subject to the plan,  
28 including all of the following:

29 (A) The amount, by weight, of unwanted class 1 lamps collected  
30 from covered entities in each county in the state, including  
31 documented collection and recycling or disposal of that material.

32 (B) A list of collection locations for unwanted products, sorted  
33 by city and county.

34 (C) Progress toward achieving the goal of recycling all unwanted  
35 class 1 lamps sold by the producer or group of producers, and the  
36 program's fair share of orphan lamps pursuant to paragraph (8) of  
37 subdivision (c) of Section 25210.15, and what actions the plan  
38 operator will take during the next reporting period, including how  
39 it will improve effective and measurable outreach and education  
40 efforts.

1 (3) The processing and disposal system, including both of the  
2 following:

3 (A) A list of processing and disposal facilities used and  
4 locations, the weight of unwanted products processed at each  
5 processing facility and disposed at each disposal facility, and a  
6 description of the methods used at each processing facility.

7 (B) Any penalties, violations, or regulatory orders received  
8 during the reporting period by each processing facility or disposal  
9 facility that was used to implement the plan.

10 (4) Costs associated with the recovery of unwanted product and  
11 total and per pound costs.

12 (b) All reports submitted to the department shall be made  
13 available to the public on the department's Internet Web site and  
14 at the department's headquarters.

15 25210.19. (a) A producer, a group of producers, or a  
16 stewardship organization that submits a plan to the department  
17 shall enter into an agreement with the department to pay the  
18 department for the costs incurred by the department associated  
19 with the review of the product stewardship plan, including the  
20 implementation and enforcement of the plan.

21 (b) The department shall deposit the amounts paid pursuant to  
22 this section into the Lighting Product Stewardship Subaccount,  
23 which is hereby established in the Hazardous Waste Control  
24 Account and which may be expended by the department, upon  
25 appropriation by the Legislature, for the costs specified in  
26 subdivision (a).

27 25210.20. (a) On or before January 30, 2012, and on or before  
28 January 1 annually thereafter, a producer of a class 2 lamp shall  
29 pay to the commission the fee established by the commission  
30 pursuant to this section.

31 (1) On or before June 30, 2011, and on or before June 1 annually  
32 thereafter, a producer of a class 2 lamp shall provide to the  
33 commission a written report with the number and efficiency, in  
34 lumens per watt, of each model of class 2 lamps sold in the state  
35 during the previous calendar year.

36 (2) On or before December 1, 2011, the commission shall adopt  
37 regulations for determining the total environmental impact of a  
38 class 2 lamp according to the relative efficiency of each type of  
39 class 2 lamp and for setting the amount of the fee based on the  
40 total environmental impact of that type of class 2 lamp according

1 to the relative efficiency of that class 2 lamp. The regulations shall  
2 require the commission to set the amount of the payment at a level  
3 necessary to provide sufficient funds to implement this section,  
4 including administrative costs.

5 (3) Based on the information submitted pursuant to paragraph  
6 (1) and pursuant to the regulations adopted pursuant to paragraph  
7 (2), the commission shall assess the total environmental impact of  
8 each class 2 lamp, based on its relative efficiency.

9 (4) The commission shall assess the fee upon each producer of  
10 a class 2 based on the total sales of class 2 lamps by that producer  
11 in the state.

12 (b) The commission shall deposit all fee revenues collected  
13 pursuant to this section in the Energy Efficiency Research Fund,  
14 which is hereby created in the State Treasury.

15 (c) The funds in the Energy Efficiency Research Fund may be  
16 expended by the commission, upon appropriation by the  
17 Legislature, to provide grants, based on an annual competitive  
18 solicitation, for all the following purposes:

19 (1) Research to improve the lighting efficiency of class 2 lamps.

20 (2) Research to reduce environmental impacts from lighting  
21 technologies used by class 2 lamps.

22 (3) Projects to reduce, remediate, and mitigate the impact of  
23 class 2 lamps on public health and the environment.

24 (d) The commission shall provide information on compliance  
25 with this section as necessary to the department for the purpose of  
26 enforcement of this article.

27 25210.21. (a) On or before January 1, 2012, the department  
28 shall issue a report concerning the status of the collective product  
29 stewardship programs *established pursuant to this article* and post  
30 the report on the department's Internet Web site.

31 (b) On or before October 1, 2013, and on or before October 1  
32 annually thereafter, the department shall invite comments from  
33 local governments, communities, and citizens to report their  
34 satisfaction with services provided by product stewardship  
35 programs *established pursuant to this article*. The department shall  
36 use this information to determine if the plan operator is meeting  
37 the plan's requirements and in reviewing the proposed updates or  
38 changes to product stewardship plans.

39 25210.22. (a) Except as provided in subdivision (f), on and  
40 after January 1, 2012, a producer, wholesaler, or retailer shall not

1 sell or offer for sale a class 1 lamp to a person in this state unless  
2 the producer of that class 1 lamp is participating in a product  
3 stewardship program under a plan approved by the department.

4 (b) Except as provided in subdivision (f), on and after February  
5 1, 2012, a producer, wholesaler, or retailer shall not sell or offer  
6 for sale a class 2 lamp to a person in this state unless the producer  
7 of that class 2 lamp has paid the fee required by Section ~~25250.20~~  
8 *25210.20*.

9 (c) The department shall provide, on its Internet Web site, lists  
10 of all of the following:

11 (1) All producers of class 1 lamps participating in an approved  
12 product stewardship program.

13 (2) All producers of class 2 lamps that have paid the fee imposed  
14 pursuant to Section ~~25201.20~~ *25210.20*.

15 (3) All producers identified by the department as noncompliant  
16 with this article and the regulations adopted to implement this  
17 article.

18 (d) On May 1, 2012, and on the following January 1 and May  
19 1 annually thereafter, the department shall post on its Internet Web  
20 site producers of covered lamps that are not in compliance with  
21 this article.

22 (e) A wholesaler or a retailer that distributes covered lamps  
23 shall monitor the department's Internet Web site to determine if a  
24 producer's lamps are in compliance with this article.

25 (f) (1) A person primarily engaged in the business of reuse and  
26 resale of a used product is not subject to this article with regard to  
27 the sale of a used working covered product, for use in the same  
28 manner and purpose for which it was originally purchased.

29 (2) A covered product that is owned by a retailer on January 1,  
30 2012, is not subject to this section and the retailer may exhaust  
31 that existing stock through sales to the public.

32 *25210.23.* (a) The department shall send a written notification  
33 to a retailer known to be selling a product in the state from a  
34 producer or wholesaler who is not in compliance with this article.

35 (b) A retailer that removes from sale any covered lamp within  
36 90 days of discovery that it is not in compliance with this article  
37 shall not be in violation of this section.

38 *25210.24.* If, after holding a public hearing, the department  
39 finds that a producer has failed to make a good faith effort to  
40 comply with this article, including, but not limited to, failing to

1 submit or implement a plan pursuant to Section 25210.15, the  
2 department shall issue a compliance order with a schedule for  
3 achieving compliance.

4 25210.25. This article does not limit, supersede, duplicate, or  
5 otherwise conflict with the authority of the department to fully  
6 implement Article 14 (commencing with Section 25251), including  
7 the authority of the department to include products in a product  
8 registry that the department adopts pursuant to that article.  
9 Notwithstanding subdivision (c) of Section 25257.1, a covered  
10 lamp shall not be considered as a product category already  
11 regulated or subject to pending regulation for purposes of Article  
12 14 (commencing with Section 25251).

13 SEC. 3. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.