

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE MAY 18, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 589

Introduced by Senator Lowenthal
(Coauthor: Assembly Member Allen)

February 17, 2011

~~An act to amend Section 25218.8 of the Health and Safety Code, relating to hazardous waste. An act to add Chapter 21 (commencing with Section 42990) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 589, as amended, Lowenthal. ~~Household hazardous waste.~~
Recycling: household mercury-containing lamps.

Existing law, the California Lighting Efficiency and Toxics Reduction Act, 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.

This bill would require a manufacturer of household mercury-containing lamps, on or before April 1, 2013, individually or through a stewardship organization, to prepare and submit to the Department of Resources Recycling and Recovery for approval a household mercury-containing lamp stewardship plan to establish a recovery program for the management of end-of-life household mercury-containing lamps. The bill would define terms, including defining the term stewardship fee as an amount added to the retail

purchase price of a mercury-containing household lamp. The bill would require the plan to include the payment of a stewardship fee at the point of sale and would specify a procedure for the department's approval of the amount of the stewardship fee. This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The department would be required to review the plan and approve the plan within 90 days of receipt. The department would be authorized to recover the reasonable cost of the plan review by requiring the payment of a plan review fee and to expend the funds, upon appropriation by the Legislature, for the costs of implementing this plan review.

The bill would require the manufacturer or designated stewardship organization to implement a program consistent with a plan approved by the department. The department would be required to post on its Internet Web site a list of manufacturers for which the department has reviewed and approved a plan and to update the site, as specified. The bill would require a retailer that distributes or sells household mercury-containing lamps to consumers in the state to monitor the department's Internet Web site to determine if the sale of a manufacturer's mercury-containing lamp is listed as being in compliance.

The bill would prohibit a manufacturer or retailer, on and after November 1, 2013, from selling or offering for sale a household mercury-containing lamp in the state unless the manufacturer is included on the above-described list, except as provided in a specified procedure.

The bill would also require a retailer to add the stewardship fee to the retail purchase price of a household mercury-containing lamp, and remit the fee to the manufacturer or stewardship organization manufacturer. A retailer would also be required to document the stewardship fee as a separate line item on the customer's receipt, and to include specified information on that receipt.

This bill would require, on or before July 1, 2014, and annually thereafter, a manufacturer or its designated stewardship organization to demonstrate to the department that it has achieved continuous meaningful improvement to the extent practicable in implementing the program, and the department would be required to direct a manufacturer or its designated stewardship organization to terminate

the program implementing its plan if it finds that the program is not proportionately contributing to the packaging, transportation, and recycling of end-of-life household mercury-containing lamps in the state.

The bill would also require a manufacturer or its designated stewardship organization, by July 1, 2014, and annually thereafter to submit a report to the department describing the program implementing the plan. The department would be required to review the annual report and issue a finding of whether the program is in compliance within 90 days of receipt.

The bill would authorize the department to enforce the bill’s provisions, including the imposition of administrative civil penalties and would make a statement of legislative intent regarding the application of state and federal antitrust laws.

~~Existing law requires hazardous waste facilities to operate under hazardous waste facilities permits issued by the Department of Toxic Substances Control and exempts from this requirement a recycle-only household hazardous waste collection facility if the facility meets certain requirements, including that the public agency, or its contractor, that intends to operate a household hazardous waste collection facility, submit a certification regarding the operation of the facility to the certified unified program agency (CUPA).~~

~~This bill would allow, as an alternative to that requirement, that the facility accept only universal waste, as defined, and that this waste be managed pursuant to specified regulations.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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) It is the policy of the state to promote the increased use of*
- 4 *energy-efficient lighting in order to reduce energy consumption,*
- 5 *reduce electricity costs, and to improve the environment.*
- 6 *(b) Fluorescent and some other types of energy-efficient lighting*
- 7 *incorporate a small amount of mercury, which is essential to their*
- 8 *ability to conserve energy and assist the state and the nation in*
- 9 *reducing energy consumption.*

1 (c) *Manufacturers of mercury-containing lamps have invested*
 2 *in and promoted environmental stewardship by redesigning their*
 3 *products and reducing the amount of mercury in lamps by over*
 4 *80 percent since 1990.*

5 (d) *It is in the best interest of the state that manufacturers*
 6 *develop and coordinate the implementation of a cost-effective*
 7 *program for the collection and recycling of household*
 8 *mercury-containing lamps, which would collect, transport, and*
 9 *process end-of-life household mercury-containing lamps utilizing,*
 10 *so far as possible, the existing public and private infrastructure*
 11 *and means already in use in this state for waste management and*
 12 *recycling.*

13 *SEC. 2. Chapter 21 (commencing with Section 42990) is added*
 14 *to Part 3 of Division 30 of the Public Resources Code, to read:*

15
 16 *CHAPTER 21. HOUSEHOLD MERCURY-CONTAINING LAMP*
 17 *RECOVERY AND RECYCLING PROGRAM*

18
 19 *Article 1. Definitions*

20
 21 *42990. For purposes of this chapter, the following terms have*
 22 *the following meanings:*

23 (a) *“Consumer” means a person who purchases a household*
 24 *mercury-containing lamp in the state for residential use.*

25 (b) *“End-of-life household mercury-containing lamp” means*
 26 *a household mercury-containing lamp that has reached its end of*
 27 *life or is no longer wanted by the consumer.*

28 (c) *“Household general service lamp” means a general purpose*
 29 *light, as defined in Section 25210.10 of the Health and Safety Code,*
 30 *that provides functional illumination for indoor or outdoor*
 31 *residential use.*

32 (d) (1) *“Household mercury-containing lamp” means a*
 33 *household general service lamp to which mercury is intentionally*
 34 *added during the manufacturing process, including, but not limited*
 35 *to, linear fluorescent, compact fluorescent, and high-intensity*
 36 *discharge lamps sold or distributed for residential use.*

37 (2) *A “nonhousehold mercury containing lamp” means a*
 38 *general purpose light, as defined in Section 25210.10 of the Health*
 39 *and Safety Code, that provides functional illumination to which*
 40 *mercury is intentionally added during the manufacturing process,*

1 including, but not limited to, linear fluorescent, compact
2 fluorescent, and high-intensity discharge lamps, but which is not
3 sold or distributed for residential use.

4 (e) (1) “Household mercury-containing lamp stewardship plan”
5 or “plan” means the household mercury-containing lamp
6 stewardship plan required to be submitted to the department
7 pursuant to Section 42991.

8 (2) “Plan submitter” means either the stewardship organization
9 or the manufacturer, whichever entity submits a plan to the
10 department pursuant to Section 42991.

11 (f) “Manufacturer” means, with regard to a household
12 mercury-containing lamp that is sold, offered for sale, or
13 distributed in the state, any of the following:

14 (1) The person that manufactures the household
15 mercury-containing lamp and who sells, offers for sale, or
16 distributes that household mercury-containing lamp in the state
17 under that person’s own name or brand.

18 (2) If there is no person that sells, offers for sale, or distributes
19 the household mercury-containing lamp in the state under the
20 person’s own name or brand, the manufacturer of the household
21 mercury-containing lamp is the owner or licensee of a trademark
22 or brand under which the household mercury-containing lamp is
23 sold or distributed in the state, whether or not the trademark is
24 registered.

25 (3) If there is no person that is a manufacturer of the household
26 mercury-containing lamp for the purpose of paragraphs (1) and
27 (2), the manufacturer of that household mercury-containing lamp
28 is the person that imports the household mercury-containing lamp
29 into the state for sale or distribution.

30 (g) “Program” means the recovery program implemented
31 pursuant to a household mercury-containing lamp stewardship
32 plan, that provides for the management of end-of-life household
33 mercury-containing lamps, including the collection, transportation,
34 processing, and recycling of household mercury-containing lamps.

35 (h) “Qualified mercury-containing lamp recycler” means a
36 person that engages in the manual or mechanical separation of
37 end-of-life household mercury-containing lamps to recover
38 components and mercury contained therein, and who has received
39 necessary governmental approvals to perform recycling in that
40 respective jurisdiction.

1 (i) “Retailer” means a person that sells or offers for sale
2 household mercury-containing lamps to a consumer in the state.

3 (j) “Sell” or “sale” means a transfer of title for consideration,
4 including remote sales conducted through retail stores, sales
5 outlets, catalogs, or the Internet, or through any other similar
6 electronic means.

7 (k) “Stewardship fee” means the fee added to the retail purchase
8 price of a mercury-containing household lamp that is established
9 pursuant to Section 42997 and is required to be paid in the manner
10 specified in Section 42996.

11 (l) “Stewardship organization” means a nonprofit organization
12 created by one or more manufacturers to implement a household
13 mercury-containing lamp stewardship plan prepared and submitted
14 to the department pursuant to Section 42991.

15

16 Article 2. Manufacturer Responsibility

17

18 42991. (a) On or before April 1, 2013, a manufacturer of
19 household mercury-containing lamps sold in this state shall,
20 individually or through a stewardship organization, prepare and
21 submit a household mercury-containing lamp stewardship plan to
22 the department in accordance with this section.

23 (b) A household mercury-containing lamp stewardship plan
24 submitted pursuant to this section shall include all of the following:

25 (1) A means for encouraging retailers to provide voluntary
26 in-store collection or recycling programs for household
27 mercury-containing lamps that may include, but is not limited to,
28 providing in-store signage and other assistance in learning about
29 end-of-life mercury-containing lamp recycling.

30 (2) A means for encouraging government agencies to provide
31 end-of-life household mercury-containing lamp recycling programs
32 for residents that may include, but is not limited to, offering signage
33 and other promotional and education assistance.

34 (3) Procedures or processes by which government agencies and
35 retailers, or alternatively, qualified mercury-containing lamp
36 recyclers, can participate in the end-of-life management of
37 household mercury-containing lamps, with the reasonable costs
38 of packaging, transporting, and processing of the household
39 mercury-containing end-of-life lamps paid for by the stewardship
40 organization or the manufacturer. These procedures or processes

1 may include, but are not limited to, providing direct management
2 services by a manufacturer or product stewardship organization
3 or a means for recovery of reasonable costs of participation by
4 participating third parties, including government agencies. The
5 plan is not required to provide that the costs of collecting lamps
6 prior to packaging and transportation be paid for by the
7 stewardship organization or the manufacturer.

8 (4) Procedures for providing reasonable and cost-efficient
9 public education about the proper handling of end-of-life household
10 mercury-containing lamps, including information directed toward
11 consumers specifying where end-of-life household
12 mercury-containing lamps are collected for recycling.

13 (c) (1) The plan shall establish goals for providing convenient
14 consumer access to collection services in every county in the state.

15 (2) The plan shall require participating collection facilities to
16 be staffed and open to the public.

17 (d) The plan shall require the information required pursuant
18 to paragraph (4) of subdivision (b) to be updated, at least once
19 per quarter, regarding the collection locations established pursuant
20 to subdivision (c).

21 (e) (1) The plan shall demonstrate sufficient funding for the
22 end-of-life household mercury-containing lamp recycling program
23 described in the plan, including a mechanism for securing and
24 dispersing funds.

25 (2) The funding mechanism shall require a stewardship fee to
26 be imposed pursuant to Section 42996 at the point-of-sale for each
27 household mercury-containing lamp sold in this state, in the
28 amount approved by the department pursuant to Section 42997.

29 (f) The plan shall consider, but is not required to be subject to,
30 the waste hierarchy specified in subdivision (a) of Section 40051.

31 (g) A plan is not required to provide for the collection and
32 recycling of nonhousehold mercury-containing lamps.

33

34 *Article 3. Plan Review and Enforcement*

35

36 42992. (a) The department shall review and approve each
37 element of a plan submitted pursuant to Section 42291 within 90
38 days of receipt. If the department does not approve the plan, the
39 department shall notify the plan submitter of the deficiencies in

1 *the plan and the plan submitter shall resubmit the plan within 45*
2 *days to correct the deficiencies noted by the department.*

3 *(b) (1) A plan approved by the department shall be a public*
4 *record, except that financial, production, or sales data reported*
5 *to the department by a manufacturer or designated stewardship*
6 *organization is not a public record under the California Public*
7 *Records Act (Chapter 3.5 (commencing with Section 6250) of*
8 *Division 7 of Title 1 of the Government Code) and shall not be*
9 *open to public inspection.*

10 *(2) Notwithstanding paragraph (1), the department may release*
11 *financial, production, or sales data in summary form if it does not*
12 *disclose financial, production, or sales data of a manufacturer or*
13 *stewardship organization.*

14 *(3) The department shall actively oversee compliance with this*
15 *chapter by stewardship organizations, manufacturers, and*
16 *retailers. The department may require a stewardship organization,*
17 *manufacturer, or retailer to take an action that the department*
18 *considers necessary to ensure that the stewardship organization,*
19 *manufacturer, or retailer is not engaging in conduct that is not*
20 *authorized under this chapter.*

21 *(c) (1) The department may recover the cost of the reasonable*
22 *plan review required under subdivision (a) by requiring the*
23 *payment of actual plan review fee costs.*

24 *(2) If the plan is submitted by a stewardship organization, the*
25 *plan review fee shall be paid from the funds collected pursuant to*
26 *Section 42997.*

27 *(3) The funds collected pursuant to this subdivision may be*
28 *expended by the department, upon appropriation by the*
29 *Legislature, for the costs of implementing this section.*

30 *42993. (a) After the department approves a plan pursuant to*
31 *Section 42992, the manufacturer or designated stewardship*
32 *organization shall implement a program consistent with the plan.*

33 *(b) A household mercury-containing lamp that is collected and*
34 *recycled under a program established pursuant to this chapter is*
35 *not discarded material for purposes of Section 25124 of the Health*
36 *and Safety Code.*

37 *42994. On or before July 1, 2013, or upon the date the plan is*
38 *approved by the department, whichever date is earlier, the*
39 *department shall post on its Internet Web site a list of*
40 *manufacturers for which the department has reviewed and*

1 approved a plan pursuant to subdivision (a) of Section 42992 and
2 that are eligible to sell or offer for sale a household
3 mercury-containing lamp pursuant to subdivision (b) of Section
4 42995. The department shall update this posting when a
5 manufacturer is added to, or deleted from, the list.

6 42995. (a) On July 1, 2013, and at least once every six months
7 thereafter, a retailer that distributes or sells household
8 mercury-containing lamps to consumers in the state shall consult
9 the department's Internet Web site to determine if a manufacturer
10 is listed as eligible to sell or offer for sale a household
11 mercury-containing lamp in this state pursuant to Section 42994.

12 (b) Except as provided in subdivision (c), on and after November
13 1, 2013, a manufacturer or retailer shall not sell or offer for sale
14 a household mercury-containing lamp in the state unless the
15 manufacturer is included on the list posted and updated by the
16 department pursuant to Section 42994.

17 (c) Except as provided in subdivision (d), a manufacturer or
18 retailer shall cease selling or offering for sale a household
19 mercury-containing lamp in the state within 120 days of the date
20 when the manufacturer is deleted from an updated list posted by
21 the department pursuant to Section 42994.

22 (d) (1) A manufacturer or retailer may petition the department
23 to reinstate the manufacturer on the list during the 120-day period
24 specified in subdivision (c).

25 (2) A petition submitted pursuant to this subdivision shall
26 include an updated plan correcting the deficiencies identified by
27 the department pursuant to Section 42992.

28 (3) The sales prohibition specified in subdivision (b) shall be
29 suspended during the department's review of the updated plan.
30 This suspension of the sales prohibition shall be posted on the
31 department's Internet Web site.

32 (4) If the department determines that the updated plan corrects
33 the deficiencies identified pursuant to Section 42992, the
34 department shall list the manufacturer as in compliance pursuant
35 to Section 42994. If the updated plan does not correct the
36 deficiencies, the sales prohibition shall be reinstated, and the
37 manufacturer shall not be posted as compliant on the department's
38 Internet Web site.

Article 4. Retailer Responsibility

1
2
3 42996. (a) On and after July 1, 2013, a retailer that distributes
4 or sells household mercury-containing lamps to consumers in the
5 state shall do all of the following:
6 (1) Add the stewardship fee, specified in the manufacturer’s or
7 stewardship organization’s plan, to the retail purchase price of
8 the household mercury-containing lamp.
9 (2) Document the manufacturer’s or stewardship organization’s
10 stewardship fee as a separate line item on the customer’s receipt.
11 (3) Add a brief but conspicuous statement on the receipt given
12 to the retail purchaser at the time of sale directing the customer
13 to the Internet Web site www.lamprecycle.org for information on
14 recycling locations.
15 (4) (A) Remit the stewardship fee to the manufacturer or
16 designated stewardship organization.
17 (B) Except as provided in subdivision (b), a retailer shall pay
18 the stewardship fee to the manufacturer or designated stewardship
19 organization on or before the last day of the month following each
20 calendar quarter. The payment shall be accompanied by a return
21 receipt in the form prescribed by the manufacturer or designated
22 stewardship organization.
23 (5) By the end of the first quarter of each calendar year, report
24 to each manufacturer the total number of that manufacturer’s
25 household mercury-containing lamps sold in the state during the
26 preceding calendar year.
27 (b) If a manufacturer sells and ships household
28 mercury-containing lamps directly to a retailer’s store or
29 distribution location in the state, a retailer may elect to pay the
30 stewardship fee in advance directly to the manufacturer for each
31 mercury-containing lamp purchased from the manufacturer for
32 resale in the state. If a retailer makes an election pursuant to this
33 subdivision, the manufacturer shall indicate the amount of the
34 stewardship fee on its invoice to the retailer, and if applicable the
35 manufacturer shall pay the stewardship fee collected from the
36 retailer to the designated stewardship organization. A retailer
37 making an election pursuant to this subdivision shall comply with
38 the requirements of paragraphs (2) and (3) of subdivision (a).
39 (c) A retailer that participates in the collection of household
40 mercury-containing lamps may refuse to accept nonhousehold

1 *mercury-containing lamps or mercury-containing lamps that are*
2 *not subject to the stewardship fee pursuant to this section.*

3 *(d) The stewardship fee established pursuant to this section is*
4 *exempt from the taxes imposed by Part 1 (commencing with Section*
5 *6001) of Division 2 of the Revenue and Taxation Code.*

6
7 *Article 5. Stewardship Fee Determination*
8

9 *42997. (a) On or before December 1, 2012, a manufacturer*
10 *or designated stewardship organization, shall recommend in*
11 *writing to the department the amount of the stewardship fee that*
12 *is to be collected from a consumer and paid by a retailer for each*
13 *household mercury-containing lamp purchased in the state and*
14 *that is to be included in the plan submitted pursuant to Section*
15 *42291.*

16 *(b) In recommending the amount of the proposed stewardship*
17 *fee, the manufacturer or designated stewardship organization shall*
18 *consider and include in its recommendation all of the following:*

19 *(1) The anticipated number of household mercury-containing*
20 *lamps sold in the state at retail during the calendar year.*

21 *(2) The cost of transporting and recycling end-of-life household*
22 *mercury-containing lamps from municipal and retail collection*
23 *locations.*

24 *(3) The anticipated number of household mercury-containing*
25 *lamps expected to be recycled during the calendar year.*

26 *(4) The administrative costs of the stewardship organization,*
27 *if any, and the manufacturer, including, but not limited to, plan*
28 *preparation, review, and implementation.*

29 *(5) The cost of the program elements specified under subdivision*
30 *(b) of Section 42991.*

31 *(6) A prudent reserve not to exceed 15 percent.*

32 *(c) No later than 90 days after receiving the recommendation*
33 *required by this section, the department shall review and approve*
34 *the recommendation. If the department approves the recommended*
35 *fee amount, the plan submitter shall include the amount of the*
36 *stewardship fee in its plan pursuant to Section 42991. If the*
37 *department does not approve the recommendation, the department*
38 *shall notify the plan submitter of the deficiencies in the*
39 *recommendation and adjust the amount of the fee, which the plan*
40 *submitter shall include in its plan pursuant to Section 42991.*

1 (d) (1) On or before July 1, 2014, and, annually thereafter, the
 2 plan submitter shall recommend to the department whether the
 3 amount of the stewardship fee established pursuant to this section
 4 should be adjusted to ensure that there are sufficient, but not
 5 excessive, revenues to fund the cost of the program, and
 6 recommend an amount for that adjustment. The recommendations
 7 shall be based on the same considerations set forth in subdivision
 8 (b).

9 (2) No later than 90 days after receiving a recommendation
 10 pursuant to this subdivision, the department shall review and
 11 approve the recommendation. If the department approves the
 12 recommended fee amount, the plan submitter shall adjust the
 13 amount of the stewardship fee in accordance with paragraph (4).

14 (3) If the department does not approve the recommendation,
 15 the department shall notify the plan submitter of the deficiencies
 16 in the recommendation and adjust the amount of the fee in
 17 accordance with paragraph (4).

18 (4) Adjustments to the stewardship fee shall apply to the
 19 calendar year beginning the January 1 following the approval of
 20 the adjusted fee.

21
 22 Article 6. Reporting and Program Review

23
 24 42998. (a) On or before July 1, 2014, and annually thereafter,
 25 a manufacturer or its designated stewardship organization shall
 26 demonstrate to the department that it has achieved continuous
 27 meaningful improvement to the extent practicable in implementing
 28 Section 42991. In demonstrating improvement, a manufacturer or
 29 its designated stewardship organization shall consider all of the
 30 following:

31 (1) The baseline recovery and recycling efforts against which
 32 the demonstrated improvement is compared.

33 (2) The effectiveness in achieving the goals established pursuant
 34 to subdivision (c) of Section 42991.

35 (3) Impediments to further improvement, including, but not
 36 limited to, the extent of consumer participation in recovery of
 37 end-of-life household mercury-containing lamps and the
 38 incremental cost of improving baseline recovery and recycling
 39 efforts relative to the extent of the improvement.

1 (4) Information provided in the report submitted to the
2 department pursuant to Section 42999.

3 (b) If more than one manufacturer or designated stewardship
4 organization submits a plan pursuant to this chapter, the
5 department shall use the information submitted by the stewardship
6 organization in its annual report pursuant to Section 42999 to
7 determine to what extent the goals included in the plan are
8 attributable to each organization and shall determine compliance
9 with this chapter accordingly.

10 (c) The department shall require a manufacturer to terminate
11 the sale of household mercury-containing lamps in the state if it
12 finds that the program in which the manufacturer is participating
13 or is conducting on its own is not proportionately contributing to
14 the packaging, transportation, and recycling of end-of-life
15 household mercury-containing lamps in the state relative to other
16 programs subject to this chapter. In making the finding required
17 by this subdivision, the department shall consider both the total
18 annual volume of end-of-life household mercury-containing lamps
19 recycled under each program and the total annual sales of
20 mercury-containing lamps in the state by manufacturers
21 participating in each program.

22 42999. (a) On or before July 1, 2014, and annually thereafter,
23 a manufacturer shall, individually or through a designated
24 stewardship organization, submit a report to the department
25 describing the program implementing the plan. At a minimum, the
26 report shall include all of the following:

27 (1) The total volume of household mercury-containing lamps
28 reported by retailers as sold in the state during the preceding
29 calendar year. A designated stewardship organization shall report
30 the aggregate volume of its members.

31 (2) The total volume of end-of-life household mercury-containing
32 lamps recovered in the state during the preceding calendar year.

33 (3) A description of the methods used by the program to collect,
34 transport, and process end-of-life household mercury-containing
35 lamps in the state.

36 (4) The number of collection locations in each county in the state
37 during the prior calendar year.

38 (5) The total cost of implementing the program.

39 (6) An evaluation of the operation of the program's funding
40 mechanism.

1 (7) *An independent financial audit funded from the stewardship*
2 *fee.*

3 (8) *Examples of educational materials that were provided to*
4 *consumers during the first year and any changes to those materials*
5 *in subsequent years.*

6 (b) *The department shall review the annual report required*
7 *pursuant to subdivision (a) and within 90 days of receipt shall*
8 *issue a finding of whether the program complies with this chapter.*

9 42999.1. *No later than 90 days after the date when the*
10 *department makes a finding pursuant to subdivision (b) of Section*
11 *42999 for the report submitted on or before July 1, 2014, a*
12 *manufacturer shall, individually or through a designated*
13 *stewardship organization, and in cooperation with the department,*
14 *sponsor a public meeting to allow any interested stakeholder the*
15 *opportunity to comment on program implementation and to make*
16 *recommendations for potential program improvements.*

17
18 *Article 7. Violations and Penalties*

19
20 42999.2. *The Legislature finds and declares all of the*
21 *following:*

22 (a) *The intent of this chapter is that a stewardship organization*
23 *preparing, submitting, and implementing a household*
24 *mercury-containing lamp stewardship plan pursuant to Section*
25 *42991 and submitting recommendations for the stewardship fee*
26 *determined pursuant to Section 42997, and the manufacturers who*
27 *jointly establish the stewardship organization and retailers who*
28 *comply with the requirements of this chapter be granted immunity*
29 *from federal and state antitrust laws for the limited purpose of*
30 *establishing, implementing, and complying with these requirements.*

31 (b) *It is further the intent of this chapter that the activities and*
32 *conduct of the stewardship organization, the manufacturers, and*
33 *the retailers that implement and comply with this chapter should*
34 *not be deemed to be in restraint of trade, a conspiracy or*
35 *combination, or any other unlawful activity in violation of any*
36 *laws of the State of California, including, but not limited to, the*
37 *Cartwright Act (Chapter 2 (commencing with Section 16700) of*
38 *Part 2 of Division 7 of the Business and Professions Code), the*
39 *Unfair Practices Act (Chapter 4 (commencing with Section 17000)*
40 *of Part 2 of Division 7 of the Business and Professions Code), or*

1 *the federal antitrust law and federal law pertaining to unfair*
2 *methods of competition and unfair or deceptive trade practices.*

3 *(d) Except as provided in subdivision (c), it is intended that an*
4 *action solely to increase the recycling of household*
5 *mercury-containing lamps by a manufacturer, stewardship*
6 *organization, or retailer that affects the types or quantities being*
7 *recycled, or the cost and structure of a program, should not be a*
8 *violation of the statutes specified in subdivision (b).*

9 *(c) Except as authorized by this chapter, subdivisions (a) and*
10 *(b) are not intended to apply to an agreement establishing or*
11 *affecting the price of household mercury-containing lamps, the*
12 *output or production of household mercury-containing lamps, or*
13 *any agreement restricting the geographic area or customers to*
14 *which household mercury-containing lamps will be sold.*

15 *42999.3. (a) The department shall enforce the provisions of*
16 *this chapter.*

17 *(b) The department may impose a civil penalty pursuant to an*
18 *administrative proceeding conducted pursuant to Article 10*
19 *(commencing with Section 11445.10) of Chapter 4.5 of Part 1 of*
20 *Division 3 of Title 2 the Government Code upon a person who*
21 *violates this chapter, in an amount of not more than one thousand*
22 *dollars (\$1,000) per violation per day.*

23 *(c) The department may bring an action imposing a civil penalty*
24 *upon a person who intentionally, knowingly, or negligently violates*
25 *this chapter, in an amount of not more than ten thousand dollars*
26 *(\$10,000) per violation per day.*

27 **SECTION 1.** ~~Section 25218.8 of the Health and Safety Code~~
28 ~~is amended to read:~~

29 ~~25218.8. (a) Except as provided in subdivision (b), a hazardous~~
30 ~~waste facilities permit shall be obtained for the operation of a~~
31 ~~household hazardous waste collection facility.~~

32 ~~(b) A hazardous waste facilities permit is not required for the~~
33 ~~operation of a recycle-only household hazardous waste collection~~
34 ~~facility if all of the following conditions are met:~~

35 ~~(1) The facility accepts only the following recyclable household~~
36 ~~hazardous waste materials for subsequent transport to an authorized~~
37 ~~recycling facility:~~

38 ~~(A) Latex paint.~~

39 ~~(B) Used oil.~~

40 ~~(C) Used oil filters.~~

- 1 ~~(D) Antifreeze.~~
- 2 ~~(E) Spent lead-acid batteries.~~
- 3 ~~(F) Nickel-cadmium, alkaline, carbon-zinc, or other small~~
- 4 ~~batteries, if the facility is in compliance with Section 25216.1.~~
- 5 ~~(G) Intact spent fluorescent lamps.~~
- 6 ~~(H) Intact spent high intensity discharge (HID) lamps.~~
- 7 ~~(2) No hazardous wastes or other materials are handled at the~~
- 8 ~~facility other than the materials specified in paragraph (1).~~
- 9 ~~(3) The materials are transported to the collection facility by~~
- 10 ~~either of the following:~~
- 11 ~~(A) The person who generated the material.~~
- 12 ~~(B) The authorized curbside household hazardous waste~~
- 13 ~~collection program.~~
- 14 ~~(4) The materials transported to the facility are transported in~~
- 15 ~~accordance with Section 25218.5.~~
- 16 ~~(5) The materials collected are not stored at the facility for more~~
- 17 ~~than 180 days, except that less than one ton of spent lead-acid~~
- 18 ~~batteries may be stored at the facility for up to one year. More than~~
- 19 ~~one ton of spent lead-acid batteries shall not be stored at the facility~~
- 20 ~~for more than 180 days.~~
- 21 ~~(6) The materials collected are managed in accordance with the~~
- 22 ~~hazardous waste labeling, containerization, emergency response,~~
- 23 ~~and personnel training requirements of this chapter.~~
- 24 ~~(7) The facility meets either of the following conditions:~~
- 25 ~~(A) The facility is in compliance with Section 25218.2.~~
- 26 ~~(B) The facility accepts only universal waste, as defined in~~
- 27 ~~Section 66261.9 of Title 22 of the California Code of Regulations,~~
- 28 ~~and this waste is managed pursuant to Chapter 23 (commencing~~
- 29 ~~with Section 66273.1) of Division 4.5 of Title 22 of the California~~
- 30 ~~Code of Regulations.~~

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