

Assembly Bill No. 324

Passed the Assembly August 22, 2013

Chief Clerk of the Assembly

Passed the Senate August 19, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 25258 and 25258.2 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 324, Bloom. Glass beads: lead and arsenic.

Existing law, part of the hazardous waste control law, requires the Department of Toxic Substances Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being a chemical of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. That law prohibits, until January 1, 2015, a person from manufacturing, selling, offering for sale, or offering for promotional purposes in this state, glass beads that contain more than a specified amount of arsenic or lead if those glass beads will be used with certain types of blasting equipment and requires, until January 1, 2015, each container or bag of glass beads sold for surface preparation to be labeled in a specific manner. Existing law also prohibits, until January 1, 2015, these glass beads from being considered as a product category subject to the chemicals of concern regulations. A violation of the hazardous control law is a misdemeanor.

This bill would revise the process for determining the amount of arsenic or lead that glass beads may contain, and would authorize the department to require any person who manufactures, sells, or offers for sale glass beads to provide to the department specified information relating to documentation and information about the manufacturer or supplier of those glass beads. The bill would authorize an authorized representative of the department, for purposes of administering and enforcing these provisions regulating the manufacture of glass beads, upon obtaining consent or after obtaining an inspection warrant, to, upon presenting appropriate credentials and at a reasonable time, take specified actions to enter and inspect a factory, warehouse, or establishment where glass beads are made. The bill would require the above-described glass bead prohibitions and requirements to be effective until January 1, 2020.

This bill would require the department, no later than January 1, 2019, to prepare an evaluation of existing research and data to determine if the standard of 75ppm or more of arsenic or 100ppm or more of lead is an appropriate standard for the use of those substances with regard to the prohibitions specified above, and to submit its findings to the Legislature. The bill would require that, if the department determines that not enough data exists to complete the evaluation, the department notify the Legislature and recommend a process for conducting the evaluation.

By extending the effective date of the prohibitions specified above, a violation of which is a crime, this bill would impose a state-mandated local program.

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.

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

SECTION 1. Section 25258 of the Health and Safety Code is amended to read:

25258. (a) A person shall not manufacture, sell, offer for sale, or offer for promotional purposes in this state glass beads that contain 75 parts per million (ppm) or more of arsenic or 100 ppm or more of lead by weight, if those glass beads will be used with pressure, suction, or wet- or dry-type blasting equipment.

(b) (1) The concentration of arsenic and lead shall be determined in accordance with guidelines from EPA reference Method 3052 using hydrofluoric acid (HF) for sample preparation or digestion.

(2) The digested sample shall be analyzed using an analytical instrument recognized by EPA such as ICP-AES, ICP-MS, or other recognized analytical instrument.

(3) The sample analysis method shall be capable of achieving recovery within the method criteria limits of arsenic and lead. A glass matrix reference material from, or traceable to, the National Institute for Standards and Technology shall be used to verify lead and arsenic concentrations specified in subdivision (a).

(4) The sample preparation method shall be capable of achieving recovery within the method criteria limits of arsenic and lead from a glass matrix reference standard from, or traceable to, the National Institute for Standards and Technology containing the metals near the concentrations specified in subdivision (a).

(c) Each container or bag of glass beads sold in this state for surface preparation, including the cleaning, peening, finishing, and deburring of aluminum and stainless steel products, and that will be used with pressure, suction, or wet- or dry-type blasting equipment, shall be labeled with the following:

“Glass bead contents contain less than 75 ppm arsenic and less than 100 ppm lead pursuant to the California Health and Safety Code Section 25258.”

(d) The department may require any person who manufactures, sells, or offers for sale, in this state glass beads to provide to the department information, including, but not limited to, identification of the manufacturer or supplier of the glass beads, information related to the sale of the glass beads, and technical documentation showing that the glass beads are in compliance with the requirements of this article. The documentation or information shall be submitted to the department no more than 28 days after the date of the request.

(e) (1) For the purpose of administering and enforcing this article, an authorized representative of the department, upon obtaining consent or after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, may, upon presenting appropriate credentials and at a reasonable time, do any of the following:

(A) Enter a factory, warehouse, or establishment where glass beads are manufactured, packed, held, or sold; enter a vehicle that is being used to transport, hold, or sell glass beads; or enter a place where glass beads are being held or sold.

(B) Inspect a factory, warehouse, establishment, vehicle, or place described in subparagraph (A), and all pertinent equipment, raw material, finished and unfinished materials, containers, and labeling in the factory, warehouse, establishment, vehicle, or place. In the case of a factory, warehouse, or establishment where glass beads are manufactured, packed, held, or sold, this inspection shall

include any record, file, paper, process, control, and facility that has a bearing on whether the glass beads are being manufactured, packed, held, transported, sold, or offered for sale or for promotional purposes in violation of this article.

(C) (i) Secure a sample of glass beads when taking an action authorized pursuant to this subdivision. If the representative obtains a sample prior to leaving the premises, he or she shall leave a receipt describing the sample obtained.

(ii) The department shall return, upon request, a sample that is not destroyed during testing when the department no longer has any purpose for retaining the sample.

(iii) A sample that is secured in compliance with this section and found to be in compliance with this article that is destroyed during testing shall be subject to a claim for reimbursement.

(D) Access all records of a carrier in commerce relating to the movement in commerce of glass beads, or the holding of glass beads during or after the movement, and the quantity, shipper, and consignee of the glass beads. A carrier shall not be subject to the other provisions of this article by reason of its receipt, carriage, holding, or delivery of glass beads in the usual course of business as a carrier.

(2) An authorized representative of the department shall be deemed to have received implied consent to enter a retail establishment, for purposes of this section, if the authorized representative enters the location of that retail establishment where the public is generally granted access.

SEC. 2. Section 25258.2 of the Health and Safety Code is amended to read:

25258.2. This article shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 3. The Department of Toxic Substances Control shall, no later than January 1, 2019, prepare an evaluation of available existing research and data to determine if the standard of 75ppm or more of arsenic or 100ppm or more of lead for purposes of subdivision (a) of Section 25258 of the Health and Safety Code is an appropriate and protective standard for the use of those substances, and shall submit its findings to the Legislature pursuant to Section 9795 of the Government Code. If the department

determines that not enough data exists to complete this evaluation, the department shall notify the Legislature and recommend a process for conducting the evaluation pursuant to Section 9795 of the Government Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor