

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 403

Introduced by Assembly Members Stone and Eggman

February 15, 2013

An act to amend Section 118286 of the Health and Safety Code, and to repeal and add Article 3.3 (commencing with Section 47115) of Chapter 1 of Part 7 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 403, as amended, Stone. Solid waste: home-generated sharps.

(1) Existing law requires a pharmaceutical manufacturer selling or distributing medication that is intended to be self-injected at home to submit, on an annual basis, to the Department of Resources Recycling and Recovery a plan supporting the safe collection and proper disposal of specified waste devices.

This bill would require a producer of home-generated sharps or a stewardship organization designated by the producer to submit a home-generated sharps stewardship plan by April 1, 2015, to the Department of Resources Recycling and Recovery. The bill would require the plan to provide for the development and implementation of a recovery program to reduce the generation of, and manage the ~~end-of-life~~ *end of life* of, home-generated sharps, and to include specified elements, including provisions to meet ~~unspecified~~ *specified* minimum collection rates for the home-generated sharps subject to the plan.

The

This bill would provide for the review and approval of the plan by the department and would require the department, on January 1, 2016, or upon the date the first plan is approved, whichever is earlier, to post on its Internet Web site a list of producers for which the department has approved a plan. The bill would require a wholesaler, health care facility, retailer, or other distributor that distributes or sells home-generated sharps to monitor the department's Internet Web site to determine if the sale of a producer's home-generated sharps is in compliance with the bill. ~~The bill would, as of 120 days after that posting, prohibit a producer or retailer from selling or offering for sale in this state home-generated sharps to a person in this state unless the producer of those home-generated sharps is in compliance with the bill's requirements.~~

The

This bill would require a producer or stewardship organization, by April 1, 2017, and every subsequent year thereafter, to prepare and submit to the department an annual report describing the activities carried out pursuant to the plan during the previous calendar year. The department would be required to review the report and would direct the department, if the annual report does not demonstrate the achievement of an unspecified collection rate increase, to require the program to take additional actions with regard to improving and increasing the number of home-generated sharps collection points, ensuring accessibility to those points, and providing additional education and outreach activities. The bill would authorize the department to exempt a producer or stewardship organization from the annual report requirements if the department determines that the collection rate for the home-generated sharps subject to a plan meets a 95% collection rate.

The

This bill would require a producer or stewardship organization submitting a plan to the department to pay the department an annual administrative fee in an amount that is sufficient to cover the department's full costs of administering and enforcing these provisions. The bill would require the department to deposit the fees in the Safe Sharps Disposal Account, which the bill would establish in the Integrated Waste Management Fund, and the department would be authorized to expend the moneys in that account, upon appropriation by the Legislature, to administer and enforce the bill's requirements.

The

This bill would require the department to enforce these provisions and would authorize the department to impose an administrative civil penalty on a person who violates the bill's requirements or on a producer or stewardship organization that does not achieve the unspecified minimum collection rate. The department would be required to deposit all penalties collected into the Safe Sharps Disposal Penalty Account, which the bill would create in the Integrated Waste Management Fund, and the department would be authorized to expend the moneys in that account, upon appropriation by the Legislature, to enforce the bill's requirements.

(2) The existing Medical Waste Management Act, administered by the State Department of Public Health, prohibits a person from knowingly placing home-generated sharps waste in certain types of containers, requires that home-generated sharps waste be transported only in a sharps container, as defined in the act, or other container approved by the department or local enforcement agency, and requires that this waste be managed only at specified locations.

This bill would additionally allow home-generated sharps waste to be managed at a facility or collection point operated pursuant to an approved home-generated sharps stewardship plan.

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. The Legislature finds and declares all of the
2 following:

3 (a) The United States Environmental Protection Agency
4 estimates that about 9 million people in the United States currently
5 use disposable needles (sharps) at home to deliver medications to
6 treat a variety of diseases and conditions, including diabetes,
7 cancer, multiple sclerosis, migraines, and allergies. United States
8 households use more than 3 billion disposable needles and syringes
9 each year.

10 (b) Since 2008, it has been illegal in California for individuals
11 to throw away home-generated sharps. While the state banned
12 needles from trash disposal in 2008, there is still no consistent,
13 statewide program that is sustainably funded or has high levels of
14 effectiveness at collecting the majority of sharps disposed of each
15 year in California. As a result, thousands of pounds of illegally

1 disposed of sharps enter the municipal waste stream each year,
2 putting many people at risk of injury or infection.

3 (c) Sharps in the trash pose serious health risks to sanitation
4 workers, water treatment facility operators, and the general public.
5 In addition to the immediate risk of a needle stick injury, sharps
6 put individuals at risk of acquiring blood borne infectious diseases,
7 such as hepatitis or HIV. Individuals who suffer a needle stick
8 injury must receive immediate treatment and ~~follow-up~~ *follow-up*
9 care, including multiple lab tests and medications.

10 (d) When sanitation workers encounter sharps, productivity
11 suffers and costs increase. When workers sustain a needle stick
12 injury, the costs of care are borne by the waste management
13 company, the workers’ compensation insurer, and ultimately,
14 taxpayers and ratepayers.

15 (e) It is the intent of the Legislature, in enacting the safe
16 home-generated sharps recovery program, as established by Article
17 3.3 (commencing with Section 47115) of Chapter 1 of Part 7 of
18 Division 30 of the Public Resources Code, to ensure affordable
19 and convenient sharps collection opportunities, which, in turn, will
20 help prevent the improper management of those sharps.

21 SEC. 2. Section 118286 of the Health and Safety Code is
22 amended to read:

23 118286. (a) A person shall not knowingly place
24 home-generated sharps waste in any of the following containers:

25 (1) Any container used for the collection of solid waste,
26 recyclable materials, or greenwaste.

27 (2) Any container used for the commercial collection of solid
28 waste or recyclable materials from business establishments.

29 (3) Any roll-off container used for the collection of solid waste,
30 construction, and demolition debris, greenwaste, or other recyclable
31 materials.

32 (b) Home-generated sharps waste shall be transported only in
33 a sharps container, or other containers approved by the enforcement
34 agency, and shall only be managed at any of the following:

35 (1) A household hazardous waste facility pursuant to Section
36 25218.13.

37 (2) A “home-generated sharps consolidation point” as defined
38 in subdivision (b) of Section 117904.

39 (3) A medical waste generator’s facility pursuant to Section
40 118147.

1 (4) A facility through the use of a medical waste mail-back
2 container approved by the department pursuant to subdivision (b)
3 of Section 118245.

4 (5) A facility or other home-generated sharps collection point
5 operated pursuant to a home-generated sharps stewardship plan
6 approved pursuant to Article 3.3 (commencing with Section 47115)
7 of Chapter 1 of Part 7 of Division 30 of the Public Resources Code.

8 SEC. 3. Article 3.3 (commencing with Section 47115) of
9 Chapter 1 of Part 7 of Division 30 of the Public Resources Code
10 is repealed.

11 SEC. 4. Article 3.3 (commencing with Section 47115) is added
12 to Chapter 1 of Part 7 of Division 30 of the Public Resources Code,
13 to read:

14 Article 3.3. Safe Home-Generated Sharps Recovery Program

15
16
17 ~~47115. The Legislature finds and declares that the purpose of~~
18 ~~the safe home-generated sharps recovery program established by~~
19 ~~this article is to require the producers of injection devices to~~
20 ~~develop and implement a program to collect, transport, and process~~
21 ~~home-generated sharps, thereby reducing the costs, public health~~
22 ~~risks, and environmental impacts of the illegal and unsafe disposal~~
23 ~~of home-generated sharps in this state.~~

24 ~~47116.~~

25 *47115.* For purposes of this article, the following terms have
26 the following meanings:

27 (a) *“Baseline” is a percentage that is determined by dividing*
28 *the estimated weight of home-generated sharps collected in the*
29 *calendar year by the estimated weight of home-generated sharps*
30 *sold in the previous calendar year.*

31 (a)

32 (b) *“Consumer” means a person that purchases or owns*
33 *home-generated sharps.*

34 (b)

35 (c) *“Distributor” means a person that sells sharps or provides*
36 *sharps for free to the general public for home use, which may*
37 *include, but is not limited to, a retailer, a veterinarian, or a health*
38 *clinic, health dispensary, or health facility licensed under Division*
39 *2 (commencing with Section 1200) of the Health and Safety Code.*

40 (e)

1 (d) “Home-generated sharps” means hypodermic needles,
2 syringes with needles attached, pen needles, intravenous needles,
3 *lancets*, or any other similar device intended to self-inject
4 medication at home.

5 (e) “*Home-generated sharps stewardship plan*” or “*plan*”
6 means a plan submitted by an individual producer or by a
7 stewardship organization on behalf of one or more producers.

8 (f) “*Producer*” means, with regard to home-generated sharps
9 that are sold, offered for sale, or distributed in the state, one of
10 the following:

11 (1) *The person who manufactures home-generated sharps and*
12 *who sells, offers for sale, or distributes those home-generated*
13 *sharps in the state under that person’s own name or brand.*

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

20 (3) *If there is no person who is a producer of the sharps for*
21 *purposes of paragraphs (1) and (2), the producer of those sharps*
22 *is the person who imports the home-generated sharps into the state*
23 *for sale or distribution.*

24 ~~(g)~~

25 (g) “*Program*” means the program implementing an approved
26 home-generated sharps stewardship plan.

27 ~~(e)~~

28 (h) “*Retailer*” means a person that sells home-generated sharps
29 in the state to a consumer. A sale includes, but is not limited to, a
30 transaction conducted through sales outlets, catalogs, or the Internet
31 or any other similar electronic means.

32 ~~(f)~~

33 (i) “*Stewardship organization*” means a nonprofit organization
34 created by one or more producers that also includes at least four
35 additional members, who shall be representatives from each of the
36 following entities, but not more than one representative per entity,
37 to the extent that the other entities do not have a representative:

38 (1) A local government.

39 (2) A distributor.

40 (3) A solid waste hauler.

1 (4) A consumer health organization ~~that will implement the~~
2 ~~home-generated sharps stewardship plan.~~

3 (g) ~~“Home-generated sharps stewardship plan” or “plan” means~~
4 ~~a plan submitted by an individual producer or by a stewardship~~
5 ~~organization on behalf of one or more producers.~~

6 (h) ~~“Producer” means, with regard to home-generated sharps~~
7 ~~that are sold, offered for sale, or distributed in the state, one of the~~
8 ~~following:~~

9 (1) ~~The person who manufactures home-generated sharps and~~
10 ~~who sells, offers for sale, or distributes those home-generated~~
11 ~~sharps in the state under that person’s own name or brand.~~

12 (2) ~~If there is no person who sells, offers for sale, or distributes~~
13 ~~home-generated sharps in the state under the person’s own name~~
14 ~~or brand, the producer of the home-generated sharps is the owner~~
15 ~~or licensee of a trademark or brand under which the~~
16 ~~home-generated sharps are sold or distributed in the state, whether~~
17 ~~or not the trademark is registered.~~

18 (3) ~~If there is no person who is a producer of the sharps for~~
19 ~~purposes of paragraphs (1) and (2), the producer of those sharps~~
20 ~~is the person who imports the home-generated sharps into the state~~
21 ~~for sale or distribution.~~

22 (i)

23 (j) ~~“Stakeholder” means a person that is subject to, or will~~
24 ~~participate in, the program that will be implemented by a proposed~~
25 ~~home-generated sharps stewardship plan, including, but not limited~~
26 ~~to, consumers, retailers, distributors, and health care providers and~~
27 ~~facilities.~~

28 *47116. A pharmaceutical manufacturer that sells or distributes*
29 *a medication in the state that is usually intended to be self-injected*
30 *at home through the use of a home-generated sharp shall submit,*
31 *on or before July 1, 2010, and annually thereafter, to the*
32 *department, or its successor agency, a plan that describes how the*
33 *manufacturer supports the safe collection and proper disposal of*
34 *the home-generated sharps.*

35 ~~47117. (a) A producer or retailer shall not sell or offer for sale~~
36 ~~in this state home-generated sharps to a person in this state unless~~
37 ~~the producer of those home-generated sharps is in compliance with~~
38 ~~this article.~~

39 (b) ~~The sales prohibition specified in subdivision (a) shall apply~~
40 ~~no earlier than 120 days after the date that the department posts~~

1 on its Internet Web site a list of producers for which the department
2 has approved a plan pursuant to paragraph (1) of subdivision (a)
3 of Section 47121.

4 ~~(e) The sales prohibition specified in subdivision (a) shall apply~~
5 ~~until the producer of the home-generated sharps is listed as~~
6 ~~compliant on the department's Internet Web site or demonstrates~~
7 ~~compliance pursuant to subdivision (b) of Section 47122.~~

8 47118:

9 47117. (a) On or before April 1, 2015, a producer or a
10 stewardship organization designated by the producer shall submit
11 a home-generated sharps stewardship plan to the department. The
12 home-generated sharps stewardship plan shall also be posted on
13 the Internet Web site of the producer or stewardship organization.
14 The plan shall provide for the implementation of the plan for each
15 calendar year, commencing January 1, 2016.

16 (b) The producer, group of producers, or stewardship
17 organization shall consult with stakeholders during the
18 development of the home-generated sharps stewardship plan,
19 including soliciting stakeholder comments and responding to
20 stakeholder comments, and shall document those comments in the
21 plan.

22 (c) The home-generated sharps stewardship plan shall provide
23 for the development and implementation of a recovery program
24 to reduce the generation of, and manage the end of life of,
25 home-generated sharps, in an environmentally sound and medically
26 safe manner, including collecting, transporting, processing, and
27 disposing. The plan shall include, at a minimum, all of the
28 following elements:

29 (1) Contact information for all participating producers.

30 (2) Procedures for calculating the collection rate for the
31 home-generated sharps subject to the plan, which shall be
32 determined using, as a baseline, the number of home-generated
33 sharps collected by all producers subject to the plan, by weight,
34 during the 2014 calendar year, as compared to the average number
35 of home-generated sharps that are sold in the state during the 2013
36 calendar year by producers that are subject to the plan.

37 (3) Provisions to meet the minimum collection rate for the
38 home-generated sharps subject to the plan, which shall be
39 determined in the following manner:

1 (A) On and after January 1, 2016, the minimum collection rate
2 shall be ~~_____~~ 25 percent of the average *above the baseline* number
3 of home-generated sharps that are sold in the state during ~~the~~
4 ~~previous three calendar years by the producers who are subject to~~
5 ~~the plan; the 2014 calendar year, as established by the department~~
6 *pursuant to paragraph (2).*

7 (B) On and after January 1, 2017, the minimum collection rate
8 shall be ~~_____~~ 20 percent of the average number of home-generated
9 sharps that are sold in the state during the previous ~~three~~ calendar
10 ~~years year~~ by the producers who are subject to the plan.

11 (C) On and after January 1, 2018, and annually thereafter, the
12 collection rate shall be determined pursuant to Section ~~47120.~~
13 *47119.*

14 (4) (A) A demonstration of sufficient funding for the
15 home-generated sharps stewardship program proposed by the plan,
16 including a funding mechanism for securing and dispersing funds
17 to cover administrative, operational, and capital costs.

18 (B) The plan shall require the producer, and not consumers, to
19 be responsible for implementing the home-generated sharps
20 stewardship program.

21 (C) The plan shall require that any surplus funds provided to
22 implement the home-generated sharps stewardship program be
23 used only to implement the program.

24 (5) Coordinate the home-generated sharps stewardship program
25 with existing local medical waste collection programs, to the extent
26 this requirement is reasonably feasible and mutually agreeable by
27 those programs.

28 (6) Programs to reduce the number of postconsumer sharps that
29 are illegally disposed of, and to maximize the proper end-of-life
30 management of home-generated sharps, including the collection
31 of home-generated sharps, as practical, based on current medical
32 waste program information.

33 (7) Education and outreach efforts for consumers, the medical
34 community, and retailers that would promote the collection of
35 home-generated sharps. This information may include, but is not
36 limited to, developing, and updating as necessary, educational and
37 other outreach materials aimed at all retailers and distributors of
38 home-generated sharps. These materials shall be made available
39 to those parties and may include, but are not limited to, one or
40 more of 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. These written materials shall include
6 information on the prohibition of the improper disposal of
7 home-generated sharps.

8 (C) Advertising or other promotional materials, or both, that
9 include references to home-generated sharps collection
10 opportunities and the prohibition on the improper disposal of
11 home-generated sharps.

12 (8) Methods for demonstrating to the department that the
13 program implemented pursuant to the plan achieves the maximum
14 improvement possible in achieving the minimum collection rate.

15 (9) The establishment of at least one home-generated sharps
16 collection point in every county in the state, but no less than one
17 home-generated sharps collection point for every 5,000 people in
18 the state.

19 ~~47119.~~

20 ~~47118.~~ A retailer may voluntarily participate as a
21 home-generated sharps collection point pursuant to the
22 home-generated sharps stewardship program.

23 ~~47120.~~

24 ~~47119.~~ On or before January 1, 2018, the department shall
25 consult with producers, stewardship organizations, local
26 government, solid waste haulers, the health community, and all
27 other stakeholders regarding the program performance. The
28 department shall set a fair and reasonable minimum collection rate
29 for the 2018 calendar year and for each subsequent calendar year
30 to achieve the goal of safely managing all home-generated sharps
31 in this state.

32 ~~47121.~~

33 ~~47120.~~ (a) The department shall review a home-generated
34 sharps stewardship plan submitted pursuant to Section ~~47118~~ ~~47117~~
35 within 90 days of receipt. The department shall approve the plan
36 if the department determines the plan provides for the establishment
37 of a home-generated sharps stewardship program that meets the
38 requirements of Section ~~47118~~ ~~47117~~. If the department does not
39 approve the plan, the department shall allow the producer or

1 stewardship organization to resubmit the plan within 90 days after
2 receiving notice of disapproval from the department.

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

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

13 (c) On or before _____, *July 1, 2015*, or three months after a
14 plan is approved pursuant to subdivision (a), whichever is later,
15 but no later than January 1, 2016, the producer or stewardship
16 organization shall implement the home-generated sharps
17 stewardship program described in the approved plan.

18 ~~47122.~~

19 *47121.* (a) (1) On January 1, 2016, or upon the date the first
20 plan is approved, whichever is earlier, the department shall post
21 on its Internet Web site a list of producers for which the department
22 has approved a plan pursuant to subdivision (a) of Section ~~42121.~~
23 *42120.* The department shall update this posting no less than once
24 every six months thereafter.

25 (2) On and after July 1, 2016, the department shall post a notice
26 on its Internet Web site listing producers that are in compliance
27 with this article and shall update this posting no less than once
28 every six months.

29 (b) A producer that is not listed on the department's Internet
30 Web site pursuant to this section, but that demonstrates to the
31 satisfaction of the department that it is in compliance with this
32 chapter before the next notice is required to be posted pursuant to
33 this section, may request a certification letter from the department
34 stating that the producer is in compliance. The producer who
35 receives that letter shall be deemed to be in compliance with this
36 chapter.

37 (c) A wholesaler, health facility, as defined in Section 1250 of
38 the Health and Safety Code, retailer, or other distributor that
39 distributes or sells home-generated sharps shall monitor the
40 department's Internet Web site to determine if the sale of a

1 producer’s home-generated sharps is in compliance with this
2 chapter.

3 ~~47123.~~

4 47122. On or before April 1, 2017, and every subsequent year
5 thereafter, each producer or sharps stewardship organization
6 implementing a plan shall prepare and submit to the department
7 an annual report describing the activities carried out pursuant to
8 the plan during the previous calendar year, commencing with the
9 2016 calendar year. The annual report shall include, but is not
10 limited to, all of the following elements:

11 (a) The number of home-generated sharps collected by the
12 program in the previous calendar year and the collection rate
13 achieved in the previous calendar year.

14 (b) A report of the total sales data for sharps sold to distributors
15 in the state for the previous calendar year.

16 (c) A report on the feedback from a stakeholders’ meeting, that
17 shall be hosted by the producers subject to the plan and made
18 available by Webcast, prior to submittal of the annual report.

19 (d) Independently audited financial statements that detail the
20 financing method selected to sustainably fund the implementation
21 of the plan to achieve the minimum collection rates described in
22 the plan, pursuant to paragraph (3) of subdivision (c) of Section
23 ~~47118.~~ 47117.

24 (e) Examples and descriptions of educational materials
25 distributed to various stakeholders aimed at increasing collection.

26 (f) An evaluation of the effectiveness of the program specific
27 to collection, public awareness, convenience, and reduced improper
28 disposal associated with both legal and illegal drug use.

29 (g) Any programmatic changes the producer or the stewardship
30 organization recommends based on new data provided in the report.

31 (h) The location, hours, and contact information for all
32 home-generated sharps collection points established pursuant to
33 the plan, including a certification that this information is accurate,
34 that a home-generated sharps collection point has been established
35 in every county in the state, and that the number of home-generated
36 sharps collection points is equal to at least one for every ~~5,000~~
37 25,000 people in the state.

38 ~~47124.~~

39 47123. (a) The department shall review the annual report
40 submitted pursuant to Section ~~47123,~~ 47122, including reviewing

1 the accuracy of the list of home-generated sharps collection points
2 that are certified to be established pursuant to the plan, and the
3 data used to determine the collection rate, including sales and
4 collection data. The department shall also determine whether all
5 of the elements specified in subdivisions (a) to (h), inclusive, of
6 Section ~~47123~~ 47122 are included in the report.

7 (b) If the annual report does not demonstrate that the program
8 has achieved a collection rate increase of percent, *pursuant*
9 *to paragraph (3) of subdivision (c) of Section 47117*, the
10 department may require the program to take additional actions
11 with regard to improving and increasing the number of
12 home-generated sharps collection points, ensuring accessibility to
13 those points, and providing additional education and outreach
14 activities.

15 (c) If the department does not disapprove a report within 45
16 days of receipt, the report shall be deemed approved by the
17 department.

18 (d) The department shall make all reports submitted to the
19 department pursuant to this section available to the public on the
20 department's Internet Web site.

21 ~~47125.~~

22 47124. If the department determines that the collection rate for
23 the home-generated sharps subject to a plan meets 95 percent, the
24 department may exempt a producer or stewardship organization
25 from any or all of the elements required to be included in the annual
26 report specified in Section ~~47123~~ 47122.

27 ~~47126.~~

28 47125. (a) A producer or stewardship organization submitting
29 a plan to the department shall pay the department an annual
30 administrative fee pursuant to subdivision (b).

31 (b) The department shall impose the annual fee in an amount
32 that is sufficient to cover the department's full costs of
33 administering and enforcing this article, including any program
34 development costs or regulatory costs incurred by the department
35 prior to the submittal of the plan. The department shall deposit the
36 fees in the Safe Sharps Disposal Account, which is hereby
37 established in the Integrated Waste Management Fund. The
38 department may expend the moneys in the Safe Sharps Disposal
39 Account, upon appropriation by the Legislature, to administer and
40 enforce this article.

1 ~~47127.~~

2 47126. (a) The department shall enforce this article and may
3 impose an administrative civil penalty on a person who violates
4 this article in an amount of up to one thousand dollars (\$1,000)
5 per violation per day.

6 (b) The department may impose an administrative civil penalty
7 on a person who intentionally, knowingly, or negligently violates
8 this article in an amount of up to ten thousand dollars (\$10,000)
9 per violation per day.

10 (c) (1) The department may impose the civil penalty specified
11 in subdivision (a) or (b) on a producer or stewardship organization
12 for which the annual report submitted does not demonstrate that
13 the ~~_____~~ percent minimum collection rate has been ~~achieved.~~
14 *achieved pursuant to subdivision (b) of Section 47123.* In lieu of
15 imposing a civil penalty, the department may require a producer
16 or stewardship organization to take additional actions to comply
17 with this article.

18 (2) In assessing a penalty pursuant to this subdivision on a
19 producer or stewardship organization, the department shall consider
20 any exigent circumstance that contributed to the producer or
21 stewardship organization not meeting the required minimum
22 collection rate.

23 (d) The department shall deposit all penalties collected pursuant
24 to this section into the Safe Sharps Disposal Penalty Account,
25 which is hereby created in the Integrated Waste Management Fund.
26 Upon appropriation by the Legislature, moneys deposited into the
27 Safe Sharps Disposal Penalty Account may be expended by the
28 department to enforce this article.

29 ~~47129.~~

30 47127. (a) Except as provided in subdivision (c), an action
31 solely to increase the collection of home-generated sharps by a
32 producer, stewardship organization, or retailer that affects the types
33 or quantities being collected, or the cost and structure of any
34 program implementing a stewardship plan, is not a violation of
35 the statutes specified in subdivision (b).

36 (b) The following statutes are not violated by an action specified
37 in subdivision (a):

38 (1) The Cartwright Act (Chapter 2 (commencing with Section
39 16700) of Part 2 of Division 7 of the Business and Professions
40 Code).

1 (2) The Unfair Practices Act (Chapter 4 (commencing with
2 Section 17000) of Part 2 of Division 7 of the Business and
3 Professions Code).

4 (c) Subdivision (a) shall not apply to ~~any~~ *an* agreement
5 establishing or affecting the price of home-generated sharps or the
6 output or production of home-generated ~~sharps, or any~~ *sharps or*
7 *an* agreement restricting the geographic area or customers to which
8 home-generated sharps will be sold.

O