

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1893

Introduced by Assembly Members Stone and Eggman

February 19, 2014

An act to add Article 7 (commencing with Section 111657) to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, and to amend Section 118286 of the Health and Safety Code 138.6 of the Labor Code, relating to ~~solid waste~~ sharps waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1893, as amended, Stone. ~~Solid waste~~—Sharps waste.

(1) Existing law, the Medical Waste Management Act, administered by the State Department of Public Health, regulates the management and handling of medical waste, as defined. Existing law specifically excludes home-generated sharps waste, as defined, from the definition of medical waste. Existing law requires all sharps waste to be placed into a sharps container, taped closed, and labeled with the words "sharps waste" or with the international biohazard symbol and the word "BIOHAZARD." Existing law prohibits a person from knowingly placing home-generated sharps waste in certain types of containers and requires that home-generated sharps waste be transported only in sharps containers, as defined, or other containers approved by the State Department of Public Health or the local enforcement agency. Existing law, the Sherman Food, Drug, and Cosmetic Law, requires the State Department of Public Health to regulate the manufacturing, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic

Act. A violation of the Sherman Food, Drug, and Cosmetic Law is a misdemeanor.

This bill would require all sharps sold to the general public in California to be sold with a sharps waste container approved by the State Department of Public Health. The bill would require the container to be labeled with the words “sharps waste” or with the international biohazard symbol and the word “BIOHAZARD” and would also require specified information to be included on a label affixed to the container or on a separate insert included in the sharps packaging. The bill would not preempt a local ordinance that establishes a mandatory system for the collection of home-generated sharps waste for disposal. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(2) Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director to develop a cost-efficient workers’ compensation information system and requires the administrative director to adopt regulations specifying the data elements to be collected by electronic data interchange. Existing law defines “sharps waste” to mean any device having acute rigid corners, edges, or protuberances capable of cutting or piercing, including, but not limited to, hypodermic needles, hypodermic needles with syringes, and syringes contaminated with biohazardous waste.

This bill would encourage the administrative director to incorporate the use of specific data elements that identify puncture wounds caused by sharps waste in nonhealth care occupations that are collected by electronic data interchange.

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.

~~Existing law, the Medical Waste Management Act, administered by the State Department of Health Care Services, regulates the management and handling of medical waste, as defined. Existing law specifically excludes home-generated sharps waste, as defined, from the definition of medical waste. Existing law prohibits a person from knowingly~~

placing home-generated sharps waste in certain types of containers and requires that home-generated sharps waste be transported only in sharps containers, as defined, or other containers approved by the department or the local enforcement agency.

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Article 7 (commencing with Section 111657) is
2 added to Chapter 6 of Part 5 of Division 104 of the Health and
3 Safety Code, to read:

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Article 7. Sharps

7 111657. (a) Sharps sold to the general public in California
8 shall be sold with a sharps waste container that is approved by
9 the department. The container shall be labeled with the words
10 “sharps waste” or with the international biohazard symbol and
11 the word “BIOHAZARD” as provided in Section 118285. The
12 sharps waste container shall include all of the following
13 information on a label affixed to the container, or on a separate
14 insert included in the sharps packaging:

15 (1) Directions for the safe disposal of sharps waste as described
16 in Sections 118285 and 118286.

17 (2) A reference to the Department of Resources Recycling and
18 Recovery’s Internet Web site on home-generated sharps waste
19 disposal and the disposal directory for sharps waste and
20 medication.

21 (b) (1) This section does not preclude a manufacturer, seller,
22 or distributor of sharps from implementing a voluntary take-back
23 program of home-generated sharps waste on their premises or
24 through a mail-back program. This section does not preclude the
25 establishment of mail-back or take-back programs.

26 (c) This section does not preempt any local ordinances that
27 establish a mandatory system for the collection of home-generated
28 sharps waste for disposal. This section does not prohibit a city,
29 county, or city and county from adopting ordinances or policies

1 *that establish a system for the collection of home-generated sharps*
2 *waste for disposal.*

3 *SEC. 2. Section 138.6 of the Labor Code is amended to read:*

4 138.6. (a) The administrative director, in consultation with
5 the Insurance Commissioner and the Workers' Compensation
6 Insurance Rating Bureau, shall develop a cost-efficient workers'
7 compensation information system, which shall be administered by
8 the division. The administrative director shall adopt regulations
9 specifying the data elements to be collected by electronic data
10 interchange.

11 (b) The information system shall do the following:

12 (1) Assist the department to manage the workers' compensation
13 system in an effective and efficient manner.

14 (2) Facilitate the evaluation of the efficiency and effectiveness
15 of the delivery system.

16 (3) Assist in measuring how adequately the system indemnifies
17 injured workers and their dependents.

18 (4) Provide statistical data for research into specific aspects of
19 the workers' compensation program.

20 (c) The data collected electronically shall be compatible with
21 the Electronic Data Interchange System of the International
22 Association of Industrial Accident Boards and Commissions. The
23 administrative director may adopt regulations authorizing the use
24 of other nationally recognized data transmission formats in addition
25 to those set forth in the Electronic Data Interchange System for
26 the transmission of data required pursuant to this section. The
27 administrative director shall accept data transmissions in any
28 authorized format. If the administrative director determines that
29 any authorized data transmission format is not in general use by
30 claims administrators, conflicts with the requirements of state or
31 federal law, or is obsolete, the administrative director may adopt
32 regulations eliminating that data transmission format from those
33 authorized pursuant to this subdivision.

34 (d) (1) The administrative director shall assess an administrative
35 penalty against a claims administrator for a violation of data
36 reporting requirements adopted pursuant to this section. The
37 administrative director shall promulgate a schedule of penalties
38 providing for an assessment of no more than five thousand dollars
39 (\$5,000) against a claims administrator in any single year,
40 calculated as follows:

1 (A) No more than one hundred dollars (\$100) multiplied by the
2 number of violations in that year that resulted in a required data
3 report not being submitted or not being accepted.

4 (B) No more than fifty dollars (\$50) multiplied by the number
5 of violations in that year that resulted in a required report being
6 late or accepted with an error.

7 (C) Multiple errors in a single report shall be counted as a single
8 violation.

9 (D) No penalty shall be assessed pursuant to Section 129.5 for
10 any violation of data reporting requirements for which a penalty
11 has been or may be assessed pursuant to this section.

12 (2) The schedule promulgated by the administrative director
13 pursuant to paragraph (1) shall establish threshold rates of
14 violations that shall be excluded from the calculation of the
15 assessment, as follows:

16 (A) The threshold rate for reports that are not submitted or are
17 submitted but not accepted shall not be less than 3 percent of the
18 number of reports that are required to be filed by or on behalf of
19 the claims administrator.

20 (B) The threshold rate for reports that are accepted with an error
21 shall not be less than 3 percent of the number of reports that are
22 accepted with an error.

23 (C) The administrative director shall set higher threshold rates
24 as appropriate in recognition of the fact that the data necessary for
25 timely and accurate reporting may not be always available to a
26 claims administrator or the claims administrator's agents.

27 (D) The administrative director may establish higher thresholds
28 for particular data elements that commonly are not reasonably
29 available.

30 (3) The administrative director may estimate the number of
31 required data reports that are not submitted by comparing a
32 statistically valid sample of data available to the administrative
33 director from other sources with the data reported pursuant to this
34 section.

35 (4) All penalties assessed pursuant to this section shall be
36 deposited in the Workers' Compensation Administration Revolving
37 Fund.

38 (5) The administrative director shall publish an annual report
39 disclosing the compliance rates of claims administrators.

1 (e) The administrative director is encouraged to incorporate
2 the use of specific data elements that identify puncture wounds
3 caused by sharps waste in nonhealth care occupations that are
4 collected by electronic data interchange.

5 SEC. 3. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 SECTION 1. ~~Section 118286 of the Health and Safety Code~~
15 ~~is amended to read:~~

16 ~~118286. (a) A person shall not knowingly place~~
17 ~~home-generated sharps waste in any of the following containers:~~

18 ~~(1) Any container used for the collection of solid waste,~~
19 ~~recyclable materials, or greenwaste.~~

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

22 ~~(3) Any roll-off container used for the collection of solid waste,~~
23 ~~construction, and demolition debris, greenwaste, or other recyclable~~
24 ~~materials.~~

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

28 ~~(1) A household hazardous waste facility pursuant to Section~~
29 ~~25218.13.~~

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

32 ~~(3) A medical waste generator’s facility pursuant to Section~~
33 ~~118147.~~

34 ~~(4) A facility through the use of a medical waste mail-back~~
35 ~~container approved by the department pursuant to subdivision (b)~~
36 ~~of Section 118245.~~

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