

AMENDED IN ASSEMBLY MAY 1, 2014  
AMENDED IN ASSEMBLY MARCH 28, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1893**

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**Introduced by Assembly Members Stone and Eggman**

February 19, 2014

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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 138.6 of the Labor Code, relating to sharps waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1893, as amended, Stone. 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~~ *that meets applicable state and federal standards for collection and disposal of medical sharps waste*. 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.

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. 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:

4  
5 Article 7. Sharps  
6

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

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

18 (2) A reference to the Department of Resources Recycling and  
19 Recovery’s Internet Web site on home-generated sharps waste  
20 disposal and the disposal directory for sharps waste and 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  
30 that establish a system for the collection of home-generated sharps  
31 waste for disposal.

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

33 138.6. (a) The administrative director, in consultation with  
34 the Insurance Commissioner and the Workers’ Compensation  
35 Insurance Rating Bureau, shall develop a cost-efficient workers’  
36 compensation information system, which shall be administered by  
37 the division. The administrative director shall adopt regulations

1 specifying the data elements to be collected by electronic data  
2 interchange.

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

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

6 (2) Facilitate the evaluation of the efficiency and effectiveness  
7 of the delivery system.

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

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

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

26 (d) (1) The administrative director shall assess an administrative  
27 penalty against a claims administrator for a violation of data  
28 reporting requirements adopted pursuant to this section. The  
29 administrative director shall promulgate a schedule of penalties  
30 providing for an assessment of no more than five thousand dollars  
31 (\$5,000) against a claims administrator in any single year,  
32 calculated as follows:

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

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

39 (C) Multiple errors in a single report shall be counted as a single  
40 violation.

1 (D) ~~No~~A penalty shall *not* be assessed pursuant to Section 129.5  
2 for any violation of data reporting requirements for which a penalty  
3 has been or may be assessed pursuant to this section.

4 (2) The schedule promulgated by the administrative director  
5 pursuant to paragraph (1) shall establish threshold rates of  
6 violations that shall be excluded from the calculation of the  
7 assessment, as follows:

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

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

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

19 (D) The administrative director may establish higher thresholds  
20 for particular data elements that commonly are not reasonably  
21 available.

22 (3) The administrative director may estimate the number of  
23 required data reports that are not submitted by comparing a  
24 statistically valid sample of data available to the administrative  
25 director from other sources with the data reported pursuant to this  
26 section.

27 (4) All penalties assessed pursuant to this section shall be  
28 deposited in the Workers' Compensation Administration Revolving  
29 Fund.

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

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

36 SEC. 3. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

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