

AMENDED IN ASSEMBLY MAY 23, 2014

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 *in quantities of 50 or more* ~~to be sold with a~~ *include a free* sharps waste container that meets applicable state and federal standards for collection and disposal of medical sharps waste. *The bill would require the sharps manufacturer to provide the sharps container at no cost.* The bill would require the container to, *among other things*, 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~~ *review the department’s practices for identifying* puncture wounds caused by sharps waste in nonhealth care occupations ~~that are collected by electronic data interchange.~~ *to determine ways of encouraging more accurate reporting and collection of needlestick injury data.*

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:

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Article 7. Sharps

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111657. (a) Sharps sold to the general public in California *in quantities of 50 or more shall be sold with a include a free sharps waste container that meets applicable state and federal standards for collection and disposal of medical sharps waste. The sharps waste container shall be provided by the sharps manufacturer at no cost. The container shall have an adequate capacity to contain the number of sharps purchased.* The container shall be labeled with the words “sharps waste” or with the international biohazard symbol and the word “BIOHAZARD” as provided in Section 118285. The sharps waste container shall include all of the following information on a label affixed to the container, or on a separate insert included in the sharps packaging:

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- (1) Directions for the safe disposal of sharps waste as described in Sections 118285 and 118286.
  - (2) A reference to the Department of Resources Recycling and Recovery’s Internet Web site on home-generated sharps waste disposal and the disposal directory for sharps waste and medication.
- (b) (1) This section does not preclude a manufacturer, seller, or distributor of sharps from implementing a voluntary take-back program of home-generated sharps waste on their premises or through a mail-back program. This section does not preclude the establishment of mail-back or take-back programs.

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

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

1 138.6. (a) The administrative director, in consultation with  
2 the Insurance Commissioner and the Workers' Compensation  
3 Insurance Rating Bureau, shall develop a cost-efficient workers'  
4 compensation information system, which shall be administered by  
5 the division. The administrative director shall adopt regulations  
6 specifying the data elements to be collected by electronic data  
7 interchange.

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

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

11 (2) Facilitate the evaluation of the efficiency and effectiveness  
12 of the delivery system.

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

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

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

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

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

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

4 (C) Multiple errors in a single report shall be counted as a single  
5 violation.

6 (D) A penalty shall not be assessed pursuant to Section 129.5  
7 for any violation of data reporting requirements for which a penalty  
8 has been or may be assessed pursuant to this section.

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

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

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

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

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

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

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

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

38 (e) The administrative director is encouraged to ~~incorporate the~~  
39 ~~use of specific data elements that identify~~ *review the department's*  
40 *practices for identifying* puncture wounds caused by sharps waste

1 in nonhealth care occupations ~~that are collected by electronic data~~  
2 ~~interchange.~~ *to determine ways of encouraging more accurate*  
3 *reporting and collection of needlestick injury data.*

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