

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 1249

Introduced by Senator Hill

February 20, 2014

An act to ~~repeal and add Section 25143.6 of Sections 25150.9, 25150.9.1, and 25150.9.2 to the Health and Safety Code, relating to hazardous waste.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1249, as amended, Hill. Hazardous waste: shredder waste.

~~(1) Existing law requires hazardous waste to be managed in accordance with the hazardous waste control laws and authorizes the Department of Toxic Substances Control to grant a variance from those requirements, pursuant to a specified procedure. The hazardous waste control laws also require specified California regional water quality control boards to prepare, by February 15, 1988, a list of class III landfills authorized to accept and dispose of shredder waste. A violation of the hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime.~~

~~This bill would repeal the provision requiring the regional boards to prepare that list and would instead require the department, notwithstanding that variance procedure, to adopt regulations to require shredder waste that is derived from automobiles, as specified, to be managed in accordance with the hazardous waste control laws. Since a violation of those regulations would be a crime, the bill would impose a state-mandated local program.~~

~~(1) The California Integrated Waste Management Act of 1989 requires materials that require special handling, as defined, to be removed from major appliances and vehicles in which they are contained~~

before crushing for transport or transferring to a baler or shredder for recycling.

The hazardous waste control laws prohibit a person who is not a certified appliance recycler from removing materials that require special handling from major appliances and imposes specified requirements regarding transporting, delivering, or selling discarded major appliances to a scrap recycling facility. A violation of the hazardous waste control laws is a crime.

This bill would authorize, until January 1, 2017, the Department of Toxic Substances Control, in consultation with other state entities, to adopt regulations establishing alternative management standards for a metal shredding facility, including activities conducted within the boundaries of a metal shredding facility, and for the generation, storage, transportation, and disposal of metal shredder residue and treated metal shredder residue, as defined, that would apply in lieu of the hazardous waste management standards if the department performs specified actions. The bill would include among those department actions preparing a preliminary analysis and a final analysis evaluating the hazardous waste management activities to which the management standards would apply. The bill would require the department to provide notice that it proposes to adopt alternative management standards. The bill would prohibit the department from adopting management standards that are less stringent than applicable standards under federal law and would require metal shredder residue and treated metal shredder residue to be disposed of in a specified manner. The bill would, on January 1, 2017, make all hazardous waste determinations and policies, procedures, or guidance issued by the department before January 1, 2014, relating to metal shredder residue or treated metal shredder residue inoperative. Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

The bill would authorize the department to collect an annual fee from metal shredding facilities at a rate sufficient to cover the costs of the department relating to metal shredding facilities, metal shredder residue, or treated metal shredder residue, as specified.

(2) 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. Section 25143.6 of the Health and Safety Code~~
2 ~~is repealed.~~

3 ~~SEC. 2. Section 25143.6 is added to the Health and Safety~~
4 ~~Code, to read:~~

5 ~~25143.6. (a) Notwithstanding any other provision of this~~
6 ~~chapter, including Section 25143, the department shall adopt~~
7 ~~regulations that require shredder waste that is derived from~~
8 ~~automobiles to be managed in accordance with this chapter.~~

9 ~~(b) For purposes of this section, shredder waste that is derived~~
10 ~~from automobiles includes, but is not limited to, the glass, fiber,~~
11 ~~rubber, automobile liquids, plastics, wood products, cloth, paper,~~
12 ~~foam, dirt, and electrical wiring that remain after an automobile~~
13 ~~is shredded and all metals have been removed.~~

14 ~~SECTION 1. Section 25150.9 is added to the Health and Safety~~
15 ~~Code, to read:~~

16 ~~25150.9. (a) The Legislature finds and declares that this~~
17 ~~section is intended to address the unique circumstances associated~~
18 ~~with the operation of metal shredding facilities, and the generation~~
19 ~~and management of wastes generated by metal shredding facilities.~~
20 ~~The Legislature further declares that this section does not set a~~
21 ~~precedent applicable to the management, including disposal, of~~
22 ~~other hazardous wastes.~~

23 ~~(b) For purposes of this section, the following definitions shall~~
24 ~~apply:~~

25 ~~(1) "Metal shredder aggregate" means the combination of~~
26 ~~ferrous metal, nonferrous metal, other recyclable materials, and~~
27 ~~nonrecyclable materials that exits from a metal shredding facility.~~

28 ~~(2) "Metal shredder residue" means the predominantly~~
29 ~~nonmetallic material that remains after conducting physical~~
30 ~~separation methods to separate any ferrous or nonferrous metals,~~
31 ~~or any other recyclable materials, from the materials created by~~
32 ~~a metal shredding facility. Metal shredder residue does not include~~
33 ~~the ferrous and nonferrous metals and other recyclable materials~~
34 ~~that have been removed from the metal shredder aggregate.~~

1 (3) “Metal shredding facility” means an operation that uses a
2 shredding technique to process end-of-life vehicles, waste
3 appliances, and other forms of scrap metal to facilitate the
4 separation and sorting of ferrous metals, nonferrous metals, and
5 other recyclable materials from nonrecyclable materials that are
6 components of the end-of-life vehicles, waste appliances, and other
7 forms of scrap metal. “Metal shredding facility” does not include
8 a feeder yard, a metal crusher, or a metal baler.

9 (4) “Scrap metal” includes ferrous metals, nonferrous metals,
10 aluminum scrap, other metals, and auto bodies, but does not
11 include aluminum cans, steel cans, or bimetal cans.

12 (5) “Treated metal shredder residue” means metal shredder
13 residue that has been chemically treated to alter its chemical
14 characteristics for purposes of rendering the metal shredder
15 residue less hazardous or nonhazardous for purposes of classifying
16 the waste in accordance with the criteria and guidelines adopted
17 by the department pursuant to Section 25141.

18 (c) The department, in consultation with the Department of
19 Resources Recycling and Recovery, the State Water Resources
20 Control Board, and the State Air Resources Board, may adopt
21 regulations establishing management standards for metal
22 shredding facilities and for the generation, storage, transportation,
23 and disposal of metal shredder residue or treated metal shredder
24 residue as an alternative to the requirements specified in this
25 chapter and the regulations adopted pursuant to this chapter, if
26 the department does all of the following:

27 (1) Prepares an analysis of the activities to which the
28 management standards will apply pursuant to subdivision (d). The
29 department shall first prepare the analysis as a preliminary
30 analysis and make it available to the public at the same time that
31 the department gives notice, pursuant to Section 11346.4 of the
32 Government Code, that it proposes to adopt the alternative
33 management standards. The department shall include in the notice
34 a statement that the department has prepared a preliminary
35 analysis and a statement concerning where a copy of the
36 preliminary analysis can be obtained. The information in the
37 preliminary analysis shall be updated and the department shall
38 make the analysis available to the public as a final analysis not
39 less than 10 working days before the date that the regulation is
40 adopted.

1 (2) *Demonstrates at least one of the conclusions set forth in*
2 *paragraphs (1) to (4), inclusive, of subdivision (e).*

3 (3) *Imposes, as may be necessary, conditions and limitations*
4 *as part of the management standards that ensure that the hazardous*
5 *waste management activity to which the management standards*
6 *will apply will not pose a significant potential hazard to human*
7 *health or safety or to the environment.*

8 (d) *Before the department gives notice of a proposal to adopt*
9 *the management standards pursuant to subdivision (c), and before*
10 *the department adopts the regulation, the department shall evaluate*
11 *the hazardous waste management activities and prepare, as*
12 *required by paragraph (1) of subdivision (c), an analysis that*
13 *addresses all of the following aspects of the activity, to the extent*
14 *that the management standards can affect these aspects of the*
15 *activity:*

16 (1) *The types of hazardous waste and the estimated amounts of*
17 *each hazardous waste that are managed as part of the activity and*
18 *the hazards to human health or safety or to the environment posed*
19 *by reasonably foreseeable mismanagement of those hazardous*
20 *wastes and their hazardous constituents. The estimate of the*
21 *amounts of each hazardous waste that are managed as part of the*
22 *activity shall be based upon information reasonably available to*
23 *the department.*

24 (2) *The complexity of the activity, and the amount and*
25 *complexity of operator training, equipment installation and*
26 *maintenance, and monitoring that are required to ensure that the*
27 *activity is conducted in a manner that safely and effectively*
28 *manages each hazardous waste.*

29 (3) *The chemical or physical hazards that are associated with*
30 *the activity and the degree to which those hazards are similar to,*
31 *or different from, the chemical or physical hazards that are*
32 *associated with the production processes that are carried out in*
33 *the facilities that produce the hazardous waste that is managed*
34 *as part of the activity.*

35 (4) *The types of accidents that might reasonably be foreseen to*
36 *occur during the management of particular types of hazardous*
37 *waste streams as part of the activity, the likely consequences of*
38 *those accidents, and the actual reasonably available accident*
39 *history associated with the activity.*

1 (5) *The types of locations at which the activity may be carried*
2 *out, an estimate of the number of these locations, and the types of*
3 *hazards that may be posed by proximity to the land uses described*
4 *in Section 25227. The estimate of the number of locations at which*
5 *the activity may be carried out shall be based upon information*
6 *reasonably available to the department.*

7 (e) *The department shall not give notice proposing the adoption*
8 *of, and the department shall not adopt, a regulation pursuant to*
9 *subdivision (c) unless it first demonstrates at least one of the*
10 *following, using the information developed in the analysis prepared*
11 *pursuant to subdivision (d):*

12 (1) *The requirements that the management standards replace*
13 *are not significant or important in either of the following situations:*

14 (A) *Preventing or mitigating potential hazards to human health*
15 *or safety or to the environment posed by the activity.*

16 (B) *Ensuring that the activity is conducted in compliance with*
17 *other applicable requirements of this chapter and the regulations*
18 *adopted pursuant to this chapter.*

19 (2) *A requirement is imposed and enforced by another public*
20 *agency that provides protection of human health and safety and*
21 *the environment that is as effective as, and equivalent to, the*
22 *protection provided by the requirement, or requirements, that the*
23 *management standards replace.*

24 (3) *Conditions or limitations imposed as part of the management*
25 *standards will provide protection of human health and safety and*
26 *the environment equivalent to the requirement, or requirements,*
27 *that the management standards replace.*

28 (4) *Conditions or limitations imposed as part of the management*
29 *standards accomplish the same regulatory purpose as the*
30 *requirement, or requirements, that the management standards*
31 *replace, but at less cost or with greater administrative convenience,*
32 *and without increasing potential risks to human health or safety*
33 *or to the environment.*

34 (f) *The department shall not adopt management standards*
35 *pursuant to this section if those standards are less stringent than*
36 *the standards that would otherwise apply under the federal act.*

37 (g) *The management standards adopted by the department*
38 *pursuant to this section shall establish requirements that apply*
39 *not only to the generation, management, and disposal of metal*
40 *shredder residue or treated metal shredder residue, but shall apply*

1 to all activities being conducted within the boundaries of any metal
2 shredding facility.

3 (h) The management standards adopted by the department
4 pursuant to this section may, to the extent it is consistent with the
5 standards that would otherwise apply under the federal act, allow
6 for metal shredder residue or treated metal shredder residue to
7 be classified and managed as nonhazardous waste, provided that
8 the analysis prepared pursuant to subdivision (d) demonstrates
9 that classification and management as hazardous waste is not
10 necessary to prevent or mitigate potential hazards to human health
11 or safety or to the environment posed by the metal shredder residue
12 or treated metal shredder residue.

13 (i) Notwithstanding Sections 25189.5 and 25201, metal shredder
14 residue or treated metal shredder residue shall be disposed of in
15 either a class I hazardous waste landfill or, if the management
16 standards adopted by the department pursuant to this section result
17 in it being classified as a nonhazardous waste, in a composite-lined
18 portion of a solid waste landfill unit that meets all requirements
19 applicable to the disposal of municipal solid waste in California
20 after October 9, 1993, and that is regulated by waste discharge
21 requirements issued pursuant to Division 7 (commencing with
22 Section 13000) of the Water Code for discharges of designated
23 waste, as defined in Section 13173 of the Water Code, or metal
24 shredder residue or treated metal shredder residue.

25 (j) On January 1, 2017, all hazardous waste determinations
26 and policies, procedures, or guidance issued by the department
27 before January 1, 2014, governing or related to the generation,
28 treatment, and management of metal shredder residue or treated
29 metal shredder residue are inoperative and have no further effect.

30 (k) The authority of the department to adopt original regulations
31 pursuant to this section shall remain in effect only until January
32 1, 2017, unless a later enacted statute, which is enacted before
33 January 1, 2017, deletes or extends that date. This subdivision
34 does not invalidate any regulation adopted pursuant to this section
35 before the expiration of the department's authority.

36 (l) A regulation adopted pursuant to this section on or before
37 January 1, 2017, shall continue in force and effect after that date,
38 until repealed or revised by the department.

39 SEC. 2. Section 25150.9.1 is added to the Health and Safety
40 Code, to read:

1 25150.9.1. *The department is authorized to collect an annual*
2 *fee from all metal shredding facilities that are subject to the*
3 *requirements of this chapter or to the management standards*
4 *adopted pursuant to Section 25150.9. The department shall*
5 *establish and adopt by regulation a fee schedule that is set at a*
6 *rate sufficient to reimburse the department's costs to adopt, and*
7 *amend as necessary, the management standards for metal*
8 *shredding facilities, to analyze samples of metal shredder residue*
9 *or treated metal shredder residue from all metal shredding*
10 *facilities, and to inspect all metal shredding facilities, as well as*
11 *transporters and facilities where metal shredder residue or treated*
12 *metal shredder residue are disposed, to ensure compliance with*
13 *the management standards adopted pursuant to Section 25150.9,*
14 *pursuant to this chapter. The fee schedule established by the*
15 *department may be updated periodically as necessary.*

16 SEC. 3. *Section 25150.9.2 is added to the Health and Safety*
17 *Code, to read:*

18 25150.9.2. *If metal shredder residue or treated metal shredder*
19 *residue is accepted by a solid waste landfill that manages and*
20 *disposes of the metal shredder residue or treated metal shredder*
21 *residue in accordance with the management standards adopted*
22 *by the department pursuant to Section 25150.9, the metal shredder*
23 *residue or treated metal shredder residue, upon acceptance by the*
24 *solid waste landfill, shall thereafter be deemed to be a solid waste,*
25 *and not a hazardous waste, for purposes of this chapter and Section*
26 *40191 of the Public Resources Code.*

27 ~~SEC. 3.~~

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