

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL

No. 1458

Introduced by Committee on Environmental Quality (Senators Hill (Chair), Corbett, Fuller, Gaines, Hancock, Jackson, Leno, and Pavley)

February 24, 2014

An act to amend Sections 25123.3~~and 25196~~, 25196, 25299, 25299.15, 25299.50, 25299.50.2, 25299.51, and 25299.56 of, to add Sections 25150.65 and 25227 to, and to repeal Section 25150.6 of, the Health and Safety Code, *and to amend Sections 13176, 13321, 13395.5, 13550, 13552.8, 13553.1, 13554, and 13554.2 of the Water Code*, relating to hazardous wastes and substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1458, as amended, Committee on Environmental Quality. ~~Hazardous waste; substances; land use; response actions. Hazardous substances.~~

(1) Existing law establishes various standards for management and control of hazardous waste, and authorizes the Department of Toxic Substances Control to exempt, by regulations adopted until January 1, 2008, a hazardous waste management activity from certain statutory requirements related to hazardous waste management if specified conditions for exemption are met. A violation of the hazardous waste control laws is a crime.

This bill would repeal the provisions that authorized, until January 1, 2008, the department to exempt hazardous waste management activities from those standards but would provide that those exceptions adopted prior to that date shall remain valid, unless repealed.

(2) Chapter 39 of the Statutes of 2012, effective June 27, 2012, authorizes a person to apply to the department for a written variance from a land use restriction imposed by the department on a hazardous waste property if certain requirements are met, including providing a statement containing specified information supporting the grant of a variance, and repealed a provision that prohibited certain uses of land that is hazardous waste property without a specific variance approved in writing by the department for the land use and land in question.

This bill would enact a prohibition similar to the one repealed against taking certain specified actions on land that is subject to a recorded land use restriction, unless a person obtains a specific approval in writing from the department for the land use on the land in question. The bill would make conforming changes with regard to this requirement. Since a violation of the bill's prohibition would be crime, the bill would impose a state-mandated local program by creating a new crime.

(3) Existing law provides for the regulation of underground storage tanks by the State Water Resources Control Board, and requires the board, until January 1, 2022, to conduct a loan and grant program to assist small businesses in upgrading, replacing, or removing tanks meeting applicable local, state, or federal standards (UST upgrade program). Existing law creates the Underground Storage Tank Cleanup Fund in the State Treasury, and authorizes the board to expend moneys in the fund, upon appropriation by the Legislature, for purposes of the program. Existing law requires that specified funds, including moneys from civil penalties collected by the board or the regional board for violations of specified program requirements, be deposited in the fund.

This bill would additionally require that moneys recovered as compensation for expenditures associated with specified investigations or enforcement actions and moneys recovered to correct a previously overpaid expenditure be deposited in the fund. The bill would authorize the board to use moneys in the fund, upon repeal of those provisions governing the loan and grant program on January 1, 2022, to pay for specified expenditures related to the repayment of loans, and actions necessary to carry out rights, obligations, or authorities under the program. The bill would revise various requirements for determining an applicant's eligibility for a claim for correction action costs or third-party compensation costs.

(4) Existing law, the Porter-Cologne Water Quality Control Act, with certain exceptions, subjects a person to civil liability if the person causes or permits any hazardous substance to be discharged in any of

the waters of the state where it creates a condition of pollution or nuisance. The act authorizes a party aggrieved by a regional water quality board's action or failure to act with regard to the administration of specified water quality laws and regulations to obtain review of the order by the State Water Quality Control Board by filing a petition for writ of mandate within 30 days of the action or failure to act. Existing law authorizes the state board, in the case of a review by the state board, upon notice and hearing, if a hearing is requested, to stay, in whole or in part, the effect of the decision or order of a regional board or of the state board.

This bill would authorize an aggrieved party, within 30 days of any order of the state board issuing or denying a stay, to file with the superior court a petition for writ of mandate. The bill would require the superior court, if an aggrieved party files such a petition for writ of mandate, to uphold the order of the state board issuing or denying the stay unless the order is arbitrary, capricious, or entirely lacking in evidentiary support, or the state board failed to follow specified procedures or give required notices, as prescribed. The bill would also specify that any stay granted by the state board or the superior court pursuant to those petitions may be made effective as of the effective date of the regional board or state board decision or order.

Existing law requires the state board, for the purpose of preparing health risk assessments, to enter into contracts or agreements with the State Department of Public Health, or with other state or local agencies, subject to the approval of the State Department of Public Health.

This bill would instead require the state board, for the purpose of preparing those health risk assessments, to enter into contracts or agreements with the Office of Environmental Health Hazard Assessment.

(3)

(5) 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:

SECTION 1. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) For purposes of this section, the following terms have the following meaning:

(1) “Liquid hazardous waste” means a hazardous waste that meets the definition of free liquids, as specified in Section 66260.10 of Title 22 of the California Code of Regulations, as that section read on January 1, 1994.

(2) “Remediation waste staging” means the temporary accumulation of non-RCRA contaminated soil that is generated and held onsite, and that is accumulated for the purpose of onsite treatment pursuant to a certified, authorized or permitted treatment method, such as a transportable treatment unit, if all of the following requirements are met:

(A) The hazardous waste being accumulated does not contain free liquids.

(B) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mills that is supported by a foundation, or high density polyethylene of at least 60 mills that is not supported by a foundation.

(C) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(D) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(E) The staging area is certified by a registered engineer for compliance with the standards specified in subparagraphs (A) to (D), inclusive.

(3) “Transfer facility” means any offsite facility that is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

1 (b) “Storage facility” means a hazardous waste facility at which
2 the hazardous waste meets any of the following requirements:

3 (1) The hazardous waste is held for greater than 90 days at an
4 onsite facility. The department may establish criteria and
5 procedures to extend that 90-day period, consistent with the federal
6 act, and to prescribe the manner in which the hazardous waste may
7 be held if not otherwise prescribed by statute.

8 (2) The hazardous waste is held for any period of time at an
9 offsite facility that is not a transfer facility.

10 (3) (A) Except as provided in subparagraph (B), the waste is
11 held at a transfer facility and any one of the following apply:

12 (i) The transfer facility is located in an area zoned residential
13 by the local planning authority.

14 (ii) The transfer facility commences initial operations on or after
15 January 1, 2005, at a site located within 500 feet of a structure
16 identified in paragraphs (1) to (5), inclusive, of subdivision (c) of
17 Section 25227.

18 (iii) The hazardous waste is held for a period greater than six
19 days at a transfer facility located in an area that is not zoned
20 industrial or agricultural by the local planning authority.

21 (iv) The hazardous waste is held for a period greater than 10
22 days at a transfer facility located in an area zoned industrial or
23 agricultural by the local planning authority.

24 (v) The hazardous waste is held for a period greater than six
25 days at a transfer facility that commenced initial operations before
26 January 1, 2005, is located in an area zoned agricultural by the
27 local planning authority, and is located within 500 feet of a
28 structure identified in paragraphs (1) to (5), inclusive, of
29 subdivision (c) of Section 25227.

30 (B) (i) Notwithstanding subparagraph (A), a transfer facility
31 located in an area that is not zoned residential by the local planning
32 authority is not a storage facility, if the only hazardous waste held
33 at the transfer facility is hazardous waste that is generated as a
34 result of an emergency release and that hazardous waste is collected
35 and temporarily stored by emergency rescue personnel, as defined
36 in Section 25501, or by a response action contractor upon the
37 request of emergency rescue personnel or the response action
38 contractor, and the holding of that hazardous waste is approved
39 by the department.

(ii) For purposes of this subparagraph, “response action contractor” means any person who enters into a contract with the department to take removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) in response to a release or threatened release, including any subcontractors of the response action contractor.

(4) (A) Except as provided in subparagraph (B), the hazardous waste is held onsite for any period of time, unless the hazardous waste is held in a container, tank, drip pad, or containment building pursuant to regulations adopted by the department.

(B) Notwithstanding subparagraph (A), a generator that accumulates hazardous waste generated and held onsite for 90 days or less for offsite transportation is not a storage facility if all of the following requirements are met:

(i) The waste is non-RCRA contaminated soil.

(ii) The hazardous waste being accumulated does not contain free liquids.

(iii) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mills that is supported by a foundation, or high density polyethylene of at least 60 mills that is not supported by a foundation.

(iv) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(v) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(vi) The generator, after final offsite transportation, inspects the accumulation site for contamination and remediates as necessary.

(vii) The site is certified by a registered engineer for compliance with the standards specified in clauses (i) to (vi), inclusive.

(5) The hazardous waste is held at a transfer facility at any location for any period of time in a manner other than in a container.

(6) The hazardous waste is held at a transfer facility at any location for any period of time and handling occurs. For purposes of this paragraph, “handling” does not include the transfer of

1 packaged or containerized hazardous waste from one vehicle to
2 another.

3 (c) The time period for calculating the 90-day period for
4 purposes of paragraph (1) of subdivision (b), or the 180-day or
5 270-day period for purposes of subdivision (h), begins when the
6 facility has accumulated 100 kilograms of hazardous waste or one
7 kilogram of extremely hazardous waste or acutely hazardous waste.
8 However, if the facility generates more than 100 kilograms of
9 hazardous waste or one kilogram of extremely hazardous waste
10 or acutely hazardous waste during any calendar month, the time
11 period begins when any amount of hazardous waste first begins
12 to accumulate in that month.

13 (d) Notwithstanding paragraph (1) of subdivision (b), a generator
14 of hazardous waste that accumulates waste onsite is not a storage
15 facility if all of the following requirements are met:

16 (1) The generator accumulates a maximum of 55 gallons of
17 hazardous waste, one quart of acutely hazardous waste, or one
18 quart of extremely hazardous waste at an initial accumulation point
19 that is at or near the area where the waste is generated and that is
20 under the control of the operator of the process generating the
21 waste.

22 (2) The generator accumulates the waste in containers other
23 than tanks.

24 (3) The generator does not hold the hazardous waste onsite
25 without a hazardous waste facilities permit or other grant of
26 authorization for a period of time longer than the shorter of the
27 following time periods:

28 (A) One year from the initial date of accumulation.

29 (B) Ninety days, or if subdivision (h) is applicable, 180 or 270
30 days, from the date that the quantity limitation specified in
31 paragraph (1) is reached.

32 (4) The generator labels any container used for the accumulation
33 of hazardous waste with the initial date of accumulation and with
34 the words “hazardous waste” or other words that identify the
35 contents of the container.

36 (5) Within three days of reaching any applicable quantity
37 limitation specified in paragraph (1), the generator labels the
38 container holding the accumulated hazardous waste with the date
39 the quantity limitation was reached and either transports the waste
40 offsite or holds the waste onsite and complies with either the

1 regulations adopted by the department establishing requirements
2 for generators subject to the time limit specified in paragraph (1)
3 of subdivision (b) or the requirements specified in paragraph (1)
4 of subdivision (h), whichever requirements are applicable.

5 (6) The generator complies with regulations adopted by the
6 department pertaining to the use and management of containers
7 and any other regulations adopted by the department to implement
8 this subdivision.

9 (e) (1) Notwithstanding paragraphs (1) and (4) of subdivision
10 (b), hazardous waste held for remediation waste staging shall not
11 be considered to be held at a hazardous waste storage facility if
12 the total accumulation period is one year or less from the date of
13 the initial placing of hazardous waste by the generator at the staging
14 site for onsite remediation, except that the department may grant
15 one six-month extension, upon a showing of reasonable cause by
16 the generator.

17 (2) (A) The generator shall submit a notification of plans to
18 store and treat hazardous waste onsite pursuant to paragraph (2)
19 of subdivision (a), in person or by certified mail, with return receipt
20 requested, to the department and to one of the following:

21 (i) The CUPA, if the generator is under the jurisdiction of a
22 CUPA.

23 (ii) If the generator is not under the jurisdiction of a CUPA, the
24 notification shall be submitted to the agency authorized, pursuant
25 to subdivision (f) of Section 25404.3, to implement and enforce
26 the requirements of this chapter listed in paragraph (1) of
27 subdivision (c) of Section 25404.

28 (B) If, after the notification pursuant to subparagraph (A), or
29 during the initial year or the six-month extension granted by the
30 department, the generator determines that treatment cannot be
31 accomplished for all, or part of, the hazardous waste accumulated
32 in a remediation waste staging area, the generator shall immediately
33 notify the department and the appropriate local agency, pursuant
34 to subparagraph (A), that the treatment has been discontinued. The
35 generator shall then handle and dispose of the hazardous waste in
36 accordance with paragraph (4) of subdivision (b).

37 (C) A generator shall not hold hazardous waste for remediation
38 waste staging unless the generator can show, through laboratory
39 testing, bench scale testing, or other documentation, that soil held
40 for remediation waste staging is potentially treatable. Any fines

1 and penalties imposed for a violation of this subparagraph may be
2 imposed beginning with the 91st day that the hazardous waste was
3 initially accumulated.

4 (3) Once an onsite treatment operation is completed on
5 hazardous waste held pursuant to paragraph (1), the generator shall
6 inspect the staging area for contamination and remediate as
7 necessary.

8 (f) Notwithstanding any other provision of this chapter,
9 remediation waste staging and the holding of non-RCRA
10 contaminated soil for offsite transportation in accordance with
11 paragraph (4) of subdivision (b) shall not be considered to be
12 disposal or land disposal of hazardous waste.

13 (g) A generator who holds hazardous waste for remediation
14 waste staging pursuant to paragraph (2) of subdivision (a) or who
15 holds hazardous waste onsite for offsite transportation pursuant to
16 paragraph (4) of subdivision (b) shall maintain records onsite that
17 demonstrate compliance with this section related to storing
18 hazardous waste for remediation waste staging or related to holding
19 hazardous waste onsite for offsite transportation, as applicable.
20 The records maintained pursuant to this subdivision shall be
21 available for review by a public agency authorized pursuant to
22 Section 25180 or 25185.

23 (h) (1) Notwithstanding paragraph (1) of subdivision (b), a
24 generator of less than 1,000 kilograms of hazardous waste in any
25 calendar month who accumulates hazardous waste onsite for 180
26 days or less, or 270 days or less if the generator transports the
27 generator's own waste, or offers the generator's waste for
28 transportation, over a distance of 200 miles or more, for offsite
29 treatment, storage, or disposal, is not a storage facility if all of the
30 following apply:

31 (A) The quantity of hazardous waste accumulated onsite never
32 exceeds 6,000 kilograms.

33 (B) The generator complies with the requirements of
34 subdivisions (d), (e), and (f) of Section 262.34 of Title 40 of the
35 Code of Federal Regulations.

36 (C) The generator does not hold acutely hazardous waste or
37 extremely hazardous waste in an amount greater than one kilogram
38 for a time period longer than that specified in paragraph (1) of
39 subdivision (b).

(2) A generator meeting the requirements of paragraph (1) who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the facility to which the generator's waste is submitted, within 60 days from the date that the hazardous waste was accepted by the initial transporter, shall submit to the department a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery.

(i) The department may adopt regulations that set forth additional restrictions and enforceable management standards that protect human health and the environment and that apply to persons holding hazardous waste at a transfer facility. A regulation adopted pursuant to this subdivision shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare, and may be adopted as an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 25150.6 of the Health and Safety Code is repealed.

SEC. 3. Section 25150.65 is added to the Health and Safety Code, to read:

25150.65. Any regulation that was adopted prior to January 1, 2008, pursuant to former Section 25150.6, exempting a hazardous waste management activity from one or more of the requirements of this chapter, shall remain valid unless repealed.

SEC. 4. Section 25196 of the Health and Safety Code is amended to read:

25196. A person who knowingly violates a provision of subdivision (a) of former Section 25221 as that section read on January 1, 2012, and who violated that provision prior to the effective date of Chapter 39 of the Statutes of 2012, or who knowingly violates Section 25227, shall be subject to a civil penalty not to exceed 25 percent of the fair market value of the land and improvements, 25 percent of the sale price of the land and improvements, or fifty thousand dollars (\$50,000), whichever has been established and is greatest.

SEC. 5. Section 25227 is added to the Health and Safety Code, to read:

1 25227. A person shall not engage in any of the following on
2 land that is subject to a recorded land use restriction pursuant to
3 former Section 25229, 25230, or 25398.7, as those sections read
4 on January 1, 2012, or pursuant to Section 25202.5, 25221, or
5 25355.5, unless the person obtains a specific approval in writing
6 from the department for the land use on the land in question:

7 (a) A new use of the land, other than the use, modification, or
8 expansion of an existing industrial or manufacturing facility or
9 complex on land that is owned by, or held for the beneficial use
10 of, the facility or complex on or before January 1, 1981.

11 (b) Subdivision of the land, as that term is used in Division 2
12 (commencing with Section 66410) of Title 7 of the Government
13 Code, except that this subdivision does not prevent the division of
14 a parcel of land so as to divide that portion of the parcel that
15 contains hazardous materials, as defined in subdivision (d) of
16 Section 25260, from other portions of that parcel.

17 (c) Construction or placement of a building or structure on the
18 land that is intended for use as any of the following, or the new
19 use of an existing structure for the purpose of serving as any of
20 the following:

21 (1) (A) Except as provided in paragraph (B), a residence,
22 including a mobilehome or factory built housing constructed or
23 installed for use as permanently occupied human habitation.

24 (B) The addition of rooms or living space to an existing
25 single-family dwelling or other minor repairs or improvements to
26 residential property that do not change the use of the property,
27 increase the population density, or impair the effectiveness of a
28 response action, shall not constitute construction or placement of
29 a building or structure for the purposes of subparagraph (A).

30 (2) A hospital for humans.

31 (3) A school for persons under 21 years of age.

32 (4) A day care center for children.

33 (5) A permanently occupied human habitation, other than those
34 used for industrial purposes.

35 *SEC. 6. Section 25299 of the Health and Safety Code is*
36 *amended to read:*

37 25299. (a) An operator of an underground tank system shall
38 be liable for a civil penalty of not less than five hundred dollars
39 (\$500) or more than five thousand dollars (\$5,000) for each

1 underground storage tank for each day of violation for any of the
2 following violations:

3 (1) Operating an underground tank system that has not been
4 issued a permit, in violation of this chapter.

5 (2) Violation of an applicable requirement of the permit issued
6 for the operation of the underground tank system.

7 (3) Failure to maintain records, as required by this chapter.

8 (4) Failure to report an unauthorized release, as required by
9 Sections 25294 and 25295.

10 (5) Failure to properly close an underground tank system, as
11 required by Section 25298.

12 (6) Violation of an applicable requirement of this chapter or
13 any regulation adopted by the board pursuant to Section 25299.3.

14 (7) Failure to permit inspection or to perform a monitoring,
15 testing, or reporting required pursuant to Section 25288 or 25289.

16 (8) Making a false statement, representation, or certification in
17 an application, record, report, or other document submitted or
18 required to be maintained pursuant to this chapter.

19 (9) Tampering with or otherwise disabling automatic leak
20 detection devices or alarms.

21 (b) An owner of an underground tank system shall be liable for
22 a civil penalty of not less than five hundred dollars (\$500) or more
23 than five thousand dollars (\$5,000) per day for each underground
24 storage tank, for each day of violation, for any of the following
25 violations:

26 (1) Failure to obtain a permit as specified by this chapter.

27 (2) Failure to repair or upgrade an underground tank system in
28 accordance with this chapter.

29 (3) Abandonment or improper closure of an underground tank
30 system subject to this chapter.

31 (4) Violation of an applicable requirement of the permit issued
32 for operation of the underground tank system.

33 (5) Violation of an applicable requirement of this chapter or a
34 regulation adopted by the board pursuant to Section 25299.3.

35 (6) Failure to permit inspection or to perform a monitoring,
36 testing, or reporting required pursuant to Section 25288 or 25289.

37 (7) Making a false statement, representation, or certification in
38 an application, record, report, or other document submitted or
39 required to be maintained pursuant to this chapter.

1 (c) A person who intentionally fails to notify the board, the
2 regional board, or the local agency when required to do so by this
3 chapter or who submits false information in a permit application,
4 amendment, or renewal, pursuant to Section 25286, is liable for a
5 civil penalty of not more than five thousand dollars (\$5,000) for
6 each underground storage tank for which notification is not given
7 or false information is submitted.

8 (d) (1) A person who violates a corrective action requirement
9 established by, or issued pursuant to, Section 25296.10 is liable
10 for a civil penalty of not more than ten thousand dollars (\$10,000)
11 for each underground storage tank for each day of violation.

12 (2) A civil penalty under this subdivision may be imposed in a
13 civil action under this chapter, or may be administratively imposed
14 by the board or a regional board pursuant to Article 2.5
15 (commencing with Section 13323) of Chapter 5 of Division 7 of
16 the Water Code.

17 (e) A person who violates Section 25292.3 is liable for a civil
18 penalty of not more than five thousand dollars (\$5,000) for each
19 underground storage tank for each day of violation.

20 (f) (1) A person who falsifies any monitoring records required
21 by this chapter, or knowingly fails to report an unauthorized
22 release, shall, upon conviction, be punished by a fine of not less
23 than five thousand dollars (\$5,000) or more than ten thousand
24 dollars (\$10,000), by imprisonment in the county jail for not to
25 exceed one year, or by both that fine and imprisonment.

26 (2) A person who intentionally disables or tampers with an
27 automatic leak detection system in a manner that would prevent
28 the automatic leak detection system from detecting a leak or
29 alerting the owner or operator of the leak, shall, upon conviction,
30 be punished by a fine of not less than five thousand dollars (\$5,000)
31 or more than ten thousand dollars (\$10,000), by imprisonment in
32 the county jail for not more than one year, or by both the fine and
33 imprisonment.

34 (g) In determining both the civil and criminal penalties imposed
35 pursuant to this section, the board, a regional board, or the court,
36 as the case may be, shall consider all relevant circumstances,
37 including, but not limited to, the extent of harm or potential harm
38 caused by the violation, the nature of the violation and the period
39 of time over which it occurred, the frequency of past violations,

1 and the corrective action, if any, taken by the person who holds
2 the permit.

3 (h) (1) A civil penalty or criminal fine imposed pursuant to this
4 section for a separate violation shall be separate, and in addition
5 to, any other civil penalty or criminal fine imposed pursuant to
6 this section or any other provision of law, except that no civil
7 penalty shall be recovered under subdivision (d) for violations for
8 which a civil penalty is recovered pursuant to Section 13268 or
9 13350 of the Water Code. The penalty or fine shall be paid to the
10 unified program agency, the participating agency, or the state,
11 whichever is represented by the office of the city attorney, district
12 attorney, or Attorney General bringing the action.

13 (2) Any penalties or fines paid to a ~~uniform~~ *unified* program
14 agency or a participating agency pursuant to paragraph (1) shall
15 be deposited into a special account and shall be expended only to
16 fund the activities of the unified program agency or participating
17 agency in enforcing ~~this chapter~~ *the unified program, as specified*
18 *in subdivision (c) of Section 25404, within that jurisdiction*
19 ~~pursuant, the jurisdiction of that agency pursuant to the uniform~~
20 *unified* program specified in Chapter 6.11 (commencing with
21 Section 25404).

22 (3) All penalties or fines collected by the board or a regional
23 board or collected on behalf of the board or a regional board by
24 the Attorney General shall be deposited in the State Water Pollution
25 Cleanup and Abatement Account in the State Water Quality
26 Control Fund, and are available for expenditure by the board, upon
27 appropriation, pursuant to Section 13441 of the Water Code.

28 (i) Paragraph (9) of subdivision (a) does not prohibit the owner
29 or operator of an underground storage tank, or his or her designee,
30 from maintaining, repairing, or replacing automatic leak detection
31 devices or alarms associated with that tank.

32 *SEC. 7. Section 25299.15 of the Health and Safety Code is*
33 *amended to read:*

34 25299.15. "Environmental impairment liability insurance"
35 means liability insurance against liability for bodily injury, as
36 defined in Section 25299.12, and for property damage, as defined
37 in ~~Section 25299.22~~ 25299.23, arising from an occurrence, as
38 defined in Section 25299.19.

39 *SEC. 8. Section 25299.50 of the Health and Safety Code is*
40 *amended to read:*

25299.50. (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury. The money in the fund may be expended by the board, upon appropriation by the Legislature, for purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

(b) Except for funds transferred to the Drinking Water Treatment and Research Fund created pursuant to subdivision (c) of Section 116367, all of the following amounts shall be deposited in the fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.

(4) Any money recovered by the fund pursuant to Section 25299.70.

(5) Any civil penalties collected by the board or regional board pursuant to Section 25299.76.

(6) *Money recovered as compensation for expenditures associated with investigations or enforcement pursuant to subdivision (j) of Section 25299.51.*

(7) *Money recovered to correct a previously overpaid expenditure issued pursuant to this chapter.*

(c) Notwithstanding subdivision (a), any funds appropriated by the Legislature in the annual Budget Act for payment of a claim for the costs of a corrective action in response to an unauthorized release, that are encumbered for expenditure for a corrective action pursuant to a letter of credit issued by the board pursuant to subdivision (e) of Section 25299.57, but are subsequently not expended for that corrective action claim, may be reallocated by the board for payment of other claims for corrective action pursuant to Section 25299.57.

SEC. 9. Section 25299.50.2 of the Health and Safety Code is amended to read:

1 25299.50.2. (a) The Underground Storage Tank Petroleum
2 Contamination Orphan Site Cleanup Fund is hereby established
3 in the State Treasury.

4 (b) (1) Except as provided in paragraph (2), the sum of ten
5 million dollars (\$10,000,000) is hereby transferred, for each of the
6 2008–09, 2009–10, and 2010–11 fiscal years, from the
7 Underground Storage Tank Cleanup Fund to the Underground
8 Storage Tank Petroleum Contamination Orphan Site Cleanup Fund.

9 (2) Available federal moneys may be deposited in the
10 Underground Storage Tank Petroleum Contamination Orphan Site
11 Cleanup Fund. The amount transferred pursuant to paragraph (1)
12 in a fiscal year shall be reduced by the amount of federal moneys
13 deposited in the Underground Storage Tank Petroleum
14 Contamination Orphan Site Cleanup Fund in that fiscal year.

15 (c) The board may expend the moneys in the Underground
16 Storage Tank Petroleum Contamination Orphan Site Cleanup Fund,
17 upon appropriation by the Legislature, for the costs of response
18 actions to remediate the harm caused by a petroleum contamination,
19 ~~including contamination caused by a refined product of petroleum~~
20 ~~or a petroleum derivative~~, at a site that meets all of the following
21 conditions:

22 (1) The site meets the conditions described in paragraph (2) of
23 subdivision (a) of Section 25395.20.

24 (2) The petroleum contamination is the principal source of
25 contamination at the site.

26 (3) The source of the petroleum contamination is, or was, an
27 underground storage tank.

28 (4) A financially responsible party has not been identified to
29 pay for remediation at the site.

30 (5) If the expenditure includes federal moneys deposited in the
31 Underground Storage Tank Petroleum Contamination Orphan Site
32 Cleanup Fund, the expenditure at the site is consistent with all
33 applicable requirements for expenditure of the federal moneys.

34 (d) Any funds in the Underground Storage Tank Petroleum
35 Contamination Orphan Site Cleanup Fund that are not expended
36 in the 2009–10, 2010–11, or 2011–12 fiscal years shall remain in
37 the Underground Storage Tank Petroleum Contamination Orphan
38 Site Cleanup Fund until they are encumbered.

39 (e) Notwithstanding Section 16304.1 of the Government Code,
40 a disbursement in liquidation of an encumbrance may be made

before or during the four years following the last day the appropriation is available for encumbrance.

(f) A recipient of a grant that was awarded pursuant to former Section 25299.50.2, as that section read on December 31, 2007, and whose encumbrance under the grant was not liquidated within the time period prescribed in Section 16304.1 of the Government Code, may receive the undisbursed balance of the encumbrance from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund consistent with the terms of the grant until June 30, 2011.

SEC. 10. Section 25299.51 of the Health and Safety Code is amended to read:

25299.51. The board may expend the ~~money~~ moneys in the ~~fund~~ Underground Storage Tank Cleanup Fund, created under subdivision (a) of Section 25299.50, for all the following purposes:

(a) In addition to the purposes specified in subdivisions (c), (d), and (e), for the costs of implementing this chapter and for implementing Section 25296.10 for a tank that is subject to this chapter.

(b) To pay for the administrative costs of the State Board of Equalization in collecting the fee imposed by Article 5 (commencing with Section 25299.40).

(c) To pay for the reasonable and necessary costs of corrective action pursuant to Section 25299.36, up to one million five hundred thousand dollars (\$1,500,000) per occurrence. The Legislature may appropriate the money in the fund for expenditure by the board, without regard to fiscal year, for prompt action in response to any unauthorized release.

(d) To pay for the costs of an agreement for the abatement of, and oversight of the abatement of, an unauthorized release of hazardous substances from underground storage tanks, by a local agency, as authorized by Section 25297.1 or by any other provision of law, except that, for the purpose of expenditure of these funds, only underground storage tanks, as defined in Section 25299.24, shall be the subject of the agreement.

(e) To pay for the costs of cleanup and oversight of unauthorized releases at abandoned tank sites. The board shall not expend more than 25 percent of the total amount of money collected and deposited in the fund annually for the purposes of this subdivision and subdivision (h).

1 (f) To pay claims pursuant to Section 25299.57.

2 (g) To pay, upon order of the Controller, for refunds pursuant
3 to Part 26 (commencing with Section 50101) of Division 2 of the
4 Revenue and Taxation Code.

5 (h) To pay for the reasonable and necessary costs of corrective
6 action pursuant to subdivision (f) of Section 25296.10, in response
7 to an unauthorized release from an underground storage tank
8 subject to this chapter.

9 (i) To pay claims pursuant to Section 25299.58.

10 (j) To pay for expenditures by the board associated with
11 discovering violations of, and enforcing, or assisting in the
12 enforcement of, the requirements of Chapter 6.7 (commencing
13 with Section 25280) with regard to petroleum underground storage
14 tanks.

15 (k) For transfer to the Petroleum Underground Storage Tank
16 Financing Account, for purposes of Chapter 6.76 (commencing
17 with Section 25299.100).

18 *(l) Upon repeal of Chapter 6.76 (commencing with Section*
19 *25299.100), to pay for expenditures authorized by subdivision (b)*
20 *of Section 25299.117, as that section reads on December 31, 2021,*
21 *immediately preceding its repeal.*

22 *SEC. 11. Section 25299.56 of the Health and Safety Code is*
23 *amended to read:*

24 25299.56. (a) The board shall determine an applicant's
25 eligibility for a claim for corrective action costs or third-party
26 compensation costs pursuant to Section 25299.57 or 25299.58 and
27 notify the applicant of that determination within 60 days from the
28 date of the receipt of the fund application. The board may classify
29 the claimant's application pursuant to Section 25299.52 after that
30 60-day period. If the board sends an applicant a determination of
31 eligibility pursuant to this subdivision, the board shall not revoke
32 that determination of eligibility, unless the application contained
33 fraudulent information or a misrepresentation. However, the board
34 may suspend making a reimbursement for a claim until the claimant
35 corrects any deficiencies that are the basis for the suspension.
36 Reinstatement of reimbursement shall occur when funds are
37 available and that reinstatement shall be made ahead of any new
38 letters of commitment issued as of the date of reinstatement.

39 (b) A claimant may request review of any ~~claim or portion of~~
40 ~~a claim not paid~~ *determination of eligibility or disapproval of*

1 *reimbursement*. The review shall be conducted and a decision
2 rendered within 30 days from the date of receipt of the request.

3 (c) A claimant may file a petition for review, in writing, with
4 the board with regard to any ~~unpaid claim determination or~~
5 *disapproval* that is unresolved to the satisfaction of the claimant
6 upon expiration of the 30-day period specified in subdivision (b)
7 and the board shall take final action on the petition within 90 days
8 of the board's receipt of a complete petition for review, except
9 that if the board initiates an adjudicative proceeding on the petition,
10 the board shall take final action within 270 days of the board's
11 receipt of a complete petition for review.

12 (d) Final action on a petition taken by the board is a final agency
13 action for the purposes of judicial review of a board decision.

14 (e) A claimant may, not later than 30 days from the date of final
15 action by the board pursuant to subdivision (c), file with the
16 superior court a petition for writ of mandate for review of the
17 decision. If the claimant does not file a petition for writ of mandate
18 within the time provided by this subdivision, a board decision shall
19 not be subject to review by the court. Section 1094.5 of the Code
20 of Civil Procedure shall govern the proceeding for a petition filed
21 pursuant to this subdivision. For purposes of subdivision (c) of
22 Section 1094.5 of the Code of Civil Procedure, the court shall
23 uphold the decision if the decision is based upon substantial
24 evidence in light of the whole record.

25 (f) Except as specified in subdivision (g), the procedures in
26 Article 8 (commencing with Section 11435.05) of Chapter 4.5 of
27 Part 1 of Division 3 of Title 2 of, and in Section 11513 of, the
28 Government Code apply to any adjudicative proceedings conducted
29 by the board pursuant to this article.

30 (g) (1) Notwithstanding subdivision (f), Sections 801, 802, 803,
31 804, and 805 of the Evidence Code apply to any adjudicative
32 proceeding conducted by the board pursuant to this article.

33 (2) This section is not a limitation on the authority of the board
34 to authorize the use of the procedure provided in Article 10
35 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of
36 Division 3 of Title 2 of the Government Code.

37 *SEC. 12. Section 13176 of the Water Code is amended to read:*

38 13176. (a) The analysis of any material required by this
39 division shall be performed by a laboratory that has accreditation
40 or certification pursuant to Article 3 (commencing with Section

1 100825) of Chapter 4 of Part 1 of Division 101 of the Health and
2 Safety Code. *This requirement does not apply to field tests, such*
3 *as tests for color, odor, turbidity, pH, temperature, dissolved*
4 *oxygen, conductivity, and disinfectant residual.*

5 (b) A person or public entity of the state shall not contract with
6 a laboratory for environmental analyses for which the State
7 Department of Public Health requires accreditation or certification
8 pursuant to this chapter, unless the laboratory holds a valid
9 certification or accreditation.

10 SEC. 13. *Section 13321 of the Water Code is amended to read:*

11 13321. (a) In the case of a review by the state board under
12 Section 13320 or review by the state board of a decision or order
13 issued under authority delegated to an officer or employee of the
14 state board where the state board, by regulation, has authorized
15 a petition for reconsideration, the state board, upon notice and
16 hearing, if a hearing is requested, may stay in whole or in part the
17 effect of the decision ~~and~~ or order of a regional board or of the
18 state board.

19 (b) (1) Within 30 days of any order of the state board issuing
20 or denying a stay, an aggrieved party may file with the superior
21 court a petition for writ of mandate. Except as otherwise provided
22 in this section, Section 1094.5 of the Code of Civil Procedure shall
23 govern proceedings concerning petitions filed under this section.

24 (2) If an aggrieved party files a petition of writ of mandate with
25 the superior court pursuant to paragraph (1), the superior court
26 shall uphold the order of the state board issuing or denying the
27 stay unless the order is arbitrary, capricious, or entirely lacking
28 in evidentiary support, or the state board failed to follow the
29 procedures or give the notices required by subdivision (a).

30 (c) If the state board or the superior court grants a stay under
31 this section, the stay may be made effective as of the effective date
32 of the regional board or state board decision or order.

33 ~~(b)~~

34 (d) If a petition is filed with the superior court ~~to review a~~
35 ~~decision of the state board under Section 13330~~, any stay in effect
36 at the time of the filing the petition shall remain in effect by
37 operation of law for a period of 20 days from the date of the filing
38 of that petition.

39 ~~(e) If the superior court grants a stay pursuant to a petition for~~
40 ~~review of a decision of the state board denying a request for a stay~~

1 ~~with respect to waste discharge requirements, the stay may be~~
 2 ~~made effective as of the effective date of the waste discharge~~
 3 ~~requirements.~~

4 *SEC. 14. Section 13395.5 of the Water Code is amended to*
 5 *read:*

6 13395.5. The state board may enter into contracts and other
 7 agreements for the purpose of evaluating or demonstrating methods
 8 for the removal, treatment, or stabilization of contaminated bottom
 9 sediment. For the purpose of preparing health risk assessments
 10 pursuant to Section 13393, the state board shall enter into contracts
 11 or agreements with the ~~State Department of Public Health Office~~
 12 *of Environmental Health Hazard Assessment*, or with other state
 13 or local agencies, subject to the approval of the ~~State Department~~
 14 ~~of Public Health Office of Environmental Health Hazard~~
 15 *Assessment*. The costs incurred for work conducted by other state
 16 agencies, including, but not limited to, the ~~State Department of~~
 17 ~~Public Health and the Department of Fish and Game~~, pursuant to
 18 this chapter shall be reimbursed according to the terms of an
 19 interagency agreement between the state board and the agency.

20 *SEC. 15. Section 13550 of the Water Code is amended to read:*

21 13550. (a) The Legislature hereby finds and declares that the
 22 use of potable domestic water for nonpotable uses, including, but
 23 not limited to, cemeteries, golf courses, parks, highway landscaped
 24 areas, and industrial and irrigation uses, is a waste or an
 25 unreasonable use of the water within the meaning of Section 2 of
 26 Article X of the California Constitution if recycled water is
 27 available which meets all of the following conditions, as
 28 determined by the state board, after notice to any person or entity
 29 who may be ordered to use recycled water or to cease using potable
 30 water and a hearing held pursuant to Article 2 (commencing with
 31 Section 648) of Chapter 1.5 of Division 3 of Title 23 of the
 32 California Code of Regulations:

33 (1) The source of recycled water is of adequate quality for these
 34 uses and is available for these uses. In determining adequate
 35 quality, the state board shall consider all relevant factors, including,
 36 but not limited to, food and employee safety, and level and types
 37 of specific constituents in the recycled water affecting these uses,
 38 on a user-by-user basis. In addition, the state board shall consider
 39 the effect of the use of recycled water in lieu of potable water on

1 the generation of hazardous waste and on the quality of wastewater
2 discharges subject to regional, state, or federal permits.

3 (2) The recycled water may be furnished for these uses at a
4 reasonable cost to the user. In determining reasonable cost, the
5 state board shall consider all relevant factors, including, but not
6 limited to, the present and projected costs of supplying, delivering,
7 and treating potable domestic water for these uses and the present
8 and projected costs of supplying and delivering recycled water for
9 these uses, and shall find that the cost of supplying the treated
10 recycled water is comparable to, or less than, the cost of supplying
11 potable domestic water.

12 (3) After concurrence with the State Department of ~~Health~~
13 ~~Services~~, *Public Health*, the use of recycled water from the
14 proposed source will not be detrimental to public health.

15 (4) The use of recycled water for these uses will not adversely
16 affect downstream water rights, will not degrade water quality,
17 and is determined not to be injurious to plantlife, fish, and wildlife.

18 (b) In making the determination pursuant to subdivision (a), the
19 state board shall consider the impact of the cost and quality of the
20 nonpotable water on each individual user.

21 (c) The state board may require a public agency or person
22 subject to this article to furnish information which the state board
23 determines to be relevant to making the determination required in
24 subdivision (a).

25 *SEC. 16. Section 13552.8 of the Water Code is amended to*
26 *read:*

27 13552.8. (a) Any public agency, including a state agency, city,
28 county, city and county, district, or any other political subdivision
29 of the state, may require the use of recycled water in floor trap
30 priming, cooling towers, and air-conditioning devices, if all of the
31 following requirements are met:

32 (1) Recycled water, for these uses, is available to the user and
33 meets the requirements set forth in Section 13550, as determined
34 by the state board after notice and a hearing.

35 (2) The use of recycled water does not cause any loss or
36 diminution of any existing water right.

37 (3) If public exposure to aerosols, mist, or spray may occur,
38 appropriate mist mitigation or mist control is provided, such as
39 the use of mist arrestors or the addition of biocides to the water in
40 accordance with criteria established pursuant to Section 13521.

(4) The person intending to use recycled water has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the public agency, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies to both of the following:

(1) New industrial facilities and subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of ~~Health Services~~ *Public Health* has approved the use of recycled water.

(2) Any structure that is retrofitted to permit the use of recycled water for floor traps, cooling towers, or air-conditioning devices, for which the State Department of ~~Health Services~~ *Public Health* has approved the use of recycled water.

(c) (1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for floor trap priming, cooling towers, or air-conditioning devices necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

SEC. 17. Section 13553.1 of the Water Code is amended to read:

13553.1. (a) The Legislature hereby finds and declares that certain coastal areas of the state have been using sea water to flush toilets and urinals as a means of conserving potable water; that this practice precludes the beneficial reuse of treated wastewater and has had a deleterious effect on the proper wastewater treatment process, and has led to corrosion of the sea water distribution pipelines and wastewater collection systems; and that this situation must be changed.

(b) There is a need for a pilot program to demonstrate that conversion to the use of recycled water in residential buildings for

1 toilet and urinal flushing does not pose a threat to public health
2 and safety.

3 (c) A city that is providing a separate distribution system for
4 sea water for use in flushing toilets and urinals in residential
5 structures may, by ordinance, authorize the use of recycled water
6 for the flushing of toilets and urinals in residential structures if the
7 level of treatment and the use of the recycled water meets the
8 criteria set by the State Department of ~~Health Services~~ *Public*
9 *Health*.

10 *SEC. 18. Section 13554 of the Water Code is amended to read:*

11 13554. (a) Any public agency, including a state agency, city,
12 county, city and county, district, or any other political subdivision
13 of the state, may require the use of recycled water for toilet and
14 urinal flushing in structures, except a mental hospital or other
15 facility operated by a public agency for the treatment of persons
16 with mental disorders, if all of the following requirements are met:

17 (1) Recycled water, for these uses, is available to the user and
18 meets the requirements set forth in Section 13550, as determined
19 by the state board after notice and a hearing.

20 (2) The use of recycled water does not cause any loss or
21 diminution of any existing water right.

22 (3) The public agency has prepared an engineering report
23 pursuant to Section 60323 of Title 22 of the California Code of
24 Regulations that includes plumbing design, cross-connection
25 control, and monitoring requirements for the use site, which are
26 in compliance with criteria established pursuant to Section 13521.

27 (b) This section applies only to either of the following:

28 (1) New structures for which the building permit is issued on
29 or after March 15, 1992, or, if a building permit is not required,
30 new structures for which construction begins on or after March
31 15, 1992.

32 (2) Any construction pursuant to subdivision (a) for which the
33 State Department of ~~Health Services~~ *Public Health* has, prior to
34 January 1, 1992, approved the use of recycled water.

35 (c) Division 13 (commencing with Section 21000) of the Public
36 Resources Code does not apply to any project which only involves
37 the repiping, redesign, or use of recycled water by a structure
38 necessary to comply with a requirement issued by a public agency
39 under subdivision (a). This exemption does not apply to any project
40 to develop recycled water, to construct conveyance facilities for

1 recycled water, or any other project not specified in this
2 subdivision.

3 *SEC. 19. Section 13554.2 of the Water Code is amended to*
4 *read:*

5 13554.2. (a) Any person or entity proposing the use of recycled
6 water shall reimburse the State Department of ~~Health Services~~
7 *Public Health* for reasonable costs that department actually incurs
8 in performing duties pursuant to this chapter.

9 (b) (1) Upon a request from the person or entity proposing the
10 use of recycled water, the State Department of ~~Health Services~~
11 *Public Health* shall, within a reasonable time after the receipt of
12 the request, provide an estimate of the costs that it will reasonably
13 incur in the performance of its duties pursuant to this chapter.

14 (2) For purposes of implementing subdivision (a), that
15 department shall maintain a record of its costs. In determining
16 those costs, that department may consider costs that include, but
17 are not limited to, costs relating to personnel requirements,
18 materials, travel, and office overhead. The amount of
19 reimbursement shall be equal to, and may not exceed, that
20 department's actual costs.

21 (c) With the consent of the person or entity proposing the use
22 of recycled water, the State Department of ~~Health Services~~ *Public*
23 *Health* may delegate all or part of the duties that department
24 performs pursuant to this chapter within a county to a local health
25 agency authorized by the board of supervisors to assume these
26 duties, if, in the judgment of that department, the local health
27 agency can perform these duties. Any person or entity proposing
28 the use of recycled water shall reimburse the local health agency
29 for reasonable costs that the local health agency actually incurs in
30 the performance of its duties delegated pursuant to this subdivision.

31 (d) (1) Upon a request from the person or entity proposing the
32 use of recycled water, the local health agency shall, within a
33 reasonable time after the receipt of the request, provide an estimate
34 of the cost it will reasonably incur in the performance of its duties
35 delegated under subdivision (c).

36 (2) The local health agency, if delegated duties pursuant to
37 subdivision (c), shall maintain a record of its costs that include,
38 but is not limited to, costs relating to personnel requirements,
39 materials, travel, and office overhead. The amount of

1 reimbursement shall be equal to, and may not exceed, the local
2 health agency's actual costs.

3 (e) The State Department of ~~Health Services~~ *Public Health* or
4 local health agency shall complete its review of a proposed use of
5 recycled water within a reasonable period of time. That department
6 shall submit to the person or entity proposing the use of recycled
7 water a written determination as to whether the proposal submitted
8 is complete for purposes of review within 30 days from the date
9 of receipt of the proposal and shall approve or disapprove the
10 proposed use within 30 days from the date on which that
11 department determines that the proposal is complete.

12 (f) An invoice for reimbursement of services rendered shall be
13 submitted to the person or entity proposing the use of recycled
14 water subsequent to completion of review of the proposed use, or
15 other services rendered, that specifies the number of hours spent
16 by the State Department of ~~Health Services~~ *Public Health* or local
17 health agency, specific tasks performed, and other costs actually
18 incurred. Supporting documentation, including receipts, logs,
19 timesheets, and other standard accounting documents, shall be
20 maintained by that department or local health agency and copies,
21 upon request, shall be provided to the person or entity proposing
22 the use of recycled water.

23 (g) For the purposes of this section, "person or entity proposing
24 the use of recycled water" means the producer or distributor of
25 recycled water submitting a proposal to the department.

26 ~~SEC. 6:~~

27 *SEC. 20.* No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.