

AMENDED IN SENATE JUNE 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 273

**Introduced by Committee on Environmental Safety and Toxic
Materials (Assembly Members Alejo (Chair), Dahle (Vice Chair),
Gonzalez, McCarty, and Ting)**

February 11, 2015

An act to amend Sections 25187.2, 25360, and 25360.1 of the Health and Safety Code, relating to hazardous waste and substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 273, as amended, Committee on Environmental Safety and Toxic Materials. Hazardous waste and substances: corrective action: liability.

Existing law authorizes the Department of Toxic Substances Control to issue an order under the hazardous waste control laws requiring that a violation be corrected and imposing a civil penalty to specified persons, including a person who has violated various provisions regulating hazardous waste or provisions concerning removal and remedial actions for hazardous substance releases. A person who is issued that order is required to pay for oversight of the removal or remedial action.

Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, authorizes the department to take or oversee removal and remedial actions related to the release of hazardous substances. Existing law authorizes the Attorney General to recover from the liable person, as defined, the costs incurred by the department or a California regional water quality control board in carrying out the act and ~~requires that~~ *subjects* any monetary obligation owed to the department pursuant to the act or the hazardous waste control laws ~~be subject~~ to a specified

rate of interest earned in the Surplus Money Investment Fund. Existing law authorizes the department to waive the interest if the obligation is satisfied within 60 days of the date of the invoice.

~~This bill would require a person to pay for oversight of any corrective action required of the person with respect to hazardous waste, and would authorize the recovery by the Attorney General of costs incurred with regard to carrying out or overseeing a removal action, a remedial action, or a corrective action under the act or under the hazardous waste control laws. The explicitly apply each of these provisions regarding a person's liability for cost recovery to the release of hazardous waste constituents into the environment. The bill would also explicitly make the costs of response or corrective action recoverable.~~

The bill would require a monetary obligation owed to the department under the act or these laws to be subject to an interest rate of 10% per annum, or, in the case of local governments, 7% per annum. The bill would instead require the department to waive the interest if the obligation is satisfied within 60 days or if the ~~person~~ *person, within 45 days of receiving an invoice*, provides notice to the department disputing the ~~obligation, for a period determined as specified.~~ *obligation.*

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

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

- 1 ~~SECTION 1. Section 25187.2 of the Health and Safety Code~~
- 2 ~~is amended to read:~~
- 3 ~~25187.2. If a person is required to take corrective action with~~
- 4 ~~respect to hazardous waste, that person shall pay for oversight of~~
- 5 ~~the corrective action. This section does not prohibit the department~~
- 6 ~~or unified program agency from assessing any other penalty or~~
- 7 ~~recovering any costs for oversight of a removal or remedial action,~~
- 8 ~~pursuant to any other provision. Nothing in this section limits the~~
- 9 ~~due process requirements of Section 25187.~~
- 10 ~~SECTION 1. Section 25187.2 of the Health and Safety Code~~
- 11 ~~is amended to read:~~
- 12 ~~25187.2. If a removal or remedial action~~ *an order or agreement*
- 13 ~~issued by the department pursuant to Section 25187 to a potentially~~
- 14 ~~responsible party requires a person to take corrective action with~~
- 15 ~~respect to a release of hazardous waste or hazardous waste~~
- 16 ~~constituents into the environment, that person shall pay for~~

1 oversight of the removal or remedial action. This section does not
2 prohibit the department or unified program agency from assessing
3 any other penalty or recovering any costs for oversight of a removal
4 or remedial action, pursuant to any other provision. Nothing in
5 this section limits the due process requirements of Section 25187.
6 *the department's costs incurred in overseeing or carrying out the*
7 *corrective action.*

8 SEC. 2. Section 25360 of the Health and Safety Code is
9 amended to read:

10 25360. (a) A cost incurred by the department or regional board
11 in carrying out or overseeing a ~~removal action, a remedial action,~~
12 *response* or a corrective action under this chapter or Chapter 6.5
13 (commencing with Section 25100) shall be recoverable pursuant
14 to state or federal law by the Attorney General, upon the request
15 of the department or regional board, from the liable person or
16 persons. The amount of any *response or corrective* action costs
17 that may be recovered pursuant to this section shall include interest
18 on any amount paid.

19 (b) A person who is liable for *response or corrective action*
20 costs incurred at a site shall have the liability reduced by any
21 reimbursements that were paid by that person for that site pursuant
22 to Section 25343.

23 (c) ~~The amount of cost determined pursuant to this section~~
24 *response or corrective action costs incurred by the department or*
25 *regional board* shall be recoverable at the discretion of the
26 ~~department, department or regional board,~~ either in a separate
27 action or by way of intervention as of right in an action for
28 contribution or indemnity. Nothing in this section deprives a party
29 of any defense that the party may have.

30 (d) Moneys recovered by the Attorney General pursuant to this
31 section shall be deposited in the state account.

32 SEC. 3. Section 25360.1 of the Health and Safety Code is
33 amended to read:

34 25360.1. (a) Except as provided in subdivision (b), a monetary
35 obligation to the department pursuant to Chapter 6.5 (commencing
36 with Section 25100) or this chapter shall be subject to interest from
37 the date of the demand at an interest rate of 10 percent per annum,
38 except that, for local governments, the interest rate shall be 7
39 percent per annum.

1 (b) The department shall waive the interest described in
2 subdivision (a) if the obligation is satisfied within 60 days from
3 the date of invoice. If, within ~~60~~ 45 days of receiving an invoice,
4 the liable person or persons provide written notice to the
5 department disputing the monetary obligation specified in the
6 invoice, or a portion thereof, the department shall waive the interest
7 until the dispute is ~~resolved, or 180 days from the date the~~
8 ~~department received the written notice disputing the obligation,~~
9 ~~whichever occurs first. If the dispute is not resolved within that~~
10 ~~180 days, then upon the accrual of 180 days, the liable person or~~
11 ~~persons shall pay the obligation specified in the invoice, including~~
12 ~~interest, or seek judicial or other legal relief, as appropriate.~~
13 *resolved.*