

AMENDED IN SENATE JULY 8, 2015

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 subjects any

monetary obligation owed to the department pursuant to the act or the hazardous waste control laws 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 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~~ *would, until June 30, 2021, subject* 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.~~ *annum. After that date, the bill would subject the monetary obligation to an interest rate of 10% per annum, except that, in the case of obligations of local governments, the rate after that date would remain at 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, within 45 days of receiving an invoice, provides *specified* notice to the department disputing the 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 an order or agreement issued by the department
- 4 pursuant to Section 25187 to a potentially responsible party
- 5 requires a person to take corrective action with respect to a release
- 6 of hazardous waste or hazardous waste constituents into the
- 7 environment, that person shall pay for the department’s costs
- 8 incurred in overseeing or carrying out the corrective action.
- 9 SEC. 2. Section 25360 of the Health and Safety Code is
- 10 amended to read:
- 11 25360. (a) A cost incurred by the department or regional board
- 12 in carrying out or overseeing a response or a corrective action
- 13 under this chapter or Chapter 6.5 (commencing with Section 25100)
- 14 shall be recoverable pursuant to state or federal law by the Attorney
- 15 General, upon the request of the department or regional board,
- 16 from the liable person or persons. The amount of any response or

1 corrective action costs that may be recovered pursuant to this
2 section shall include interest on any amount paid.

3 (b) A person who is liable for response or corrective action costs
4 incurred at a site shall have the liability reduced by any
5 reimbursements that were paid by that person for that site pursuant
6 to Section 25343.

7 (c) The amount of response or corrective action costs incurred
8 by the department or regional board shall be recoverable at the
9 discretion of the department or regional board, either in a separate
10 action or by way of intervention as of right in an action for
11 contribution or indemnity. Nothing in this section deprives a party
12 of any defense that the party may have.

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

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

17 25360.1. (a) ~~Except~~ *Until June 30, 2021, except* as provided
18 in subdivision (b), a monetary obligation to the department pursuant
19 to Chapter 6.5 (commencing with Section 25100) or this chapter
20 shall be subject to interest from the date of the demand at an
21 interest rate of ~~10~~ 7 percent per annum, ~~except that, for local~~
22 ~~governments, the interest rate shall be 7 percent per annum.~~ *annum.*
23 *Commencing July 1, 2021, except as provided in subdivision (b),*
24 *a monetary obligation to the department pursuant to Chapter 6.5*
25 *(commencing with Section 25100) or this chapter shall be subject*
26 *to interest from the date of the demand at an interest rate of 10*
27 *percent per annum, except that, for obligations of local*
28 *governments, the interest rate shall be 7 percent per annum.*

29 (b) The department shall waive the interest described in
30 subdivision (a) if the obligation is satisfied within 60 days from
31 the date of invoice. If, within 45 days of receiving an invoice, the
32 liable person or persons provide written notice to the department
33 *in accordance with its invoice dispute resolution procedures*
34 *disputing in good faith* the monetary obligation specified in the
35 invoice, or a portion thereof, the department shall waive the interest
36 until the dispute is resolved.

O