

AMENDED IN SENATE AUGUST 9, 2016

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2153**

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**Introduced by Assembly Member Cristina Garcia  
(Coauthor: Assembly Member Santiago)**

February 17, 2016

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An act to amend, repeal, and add Section 25190 of, to add Sections *Section 25215.5.5* and ~~124166~~ to, and to repeal and add Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2153, as amended, Cristina Garcia. The Lead-Acid Battery Recycling Act of 2016.

Existing law prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. Existing law requires a dealer to accept, when offered at the point of transfer, a lead-acid battery from a consumer in exchange for the new lead-acid

battery purchased by that consumer from the dealer. *A violation of these provisions is a misdemeanor.*

This bill, the Lead-Acid Battery Recycling Act of 2016, would, as of January 1, 2017, revise these provisions to require a dealer to accept, at the point of transfer, specified types of used lead-acid batteries and would prohibit the dealer from charging any fee to accept these used lead-acid batteries. The bill would require a dealer to collect a refundable deposit, as specified, for each new lead-acid battery of these types from a person who purchases the battery and who does not simultaneously provide a used lead-acid battery of the same size and type, and would require the dealer to refund the deposit to the person if, within 45 days of the sale of that lead-acid battery, the person presents a used lead-acid battery of the same type and size. The bill would require a dealer to post a specified notice or include specified information on the purchaser's receipt for one of these lead-acid batteries with regard to these provisions. The bill would allow the dealer to keep any lead-acid battery refundable deposit that is not properly claimed within 45 days after the date of sale of the new lead-acid battery.

This bill, on and after April 1, 2017, would require a California battery fee in the amount of \$1 to be imposed on a person, except as specified, for each replacement lead-acid battery purchased that is of one of the specified types. The bill would authorize the dealer to retain 1½% of the fee as reimbursement for any costs associated with the collection of the fee and would require the dealer to remit the remainder to the State Board of Equalization.

This bill, on and after April 1, 2017, would require a manufacturer battery fee of \$1 to be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California, for deposit into the Lead-Acid Battery Cleanup Fund. ~~The bill would require manufacturers to temporarily suspend and resume remitting this manufacturer battery fee if the balance of the Lead-Acid Battery Cleanup Fund reaches certain amounts. The bill would permanently terminate the obligation of all manufacturers to pay a manufacturer battery fee under certain circumstances.~~

~~The bill would provide for certain credits against liability for a person who remits manufacturer battery fees if that person is held responsible by any court, regional board, agency, or any other authority for certain hazardous substance violations. The bill would authorize the state to bring an action against a person who has remitted manufacturer battery~~

~~fees for the payment or reimbursement of any moneys to the state or a regional board for specified response actions only if the state has a reasonable basis to believe that the person would ultimately be held responsible for amounts in excess of the amounts the person has remitted in manufacturer battery fees that are not already committed to the person's liability. The bill would allow certain wholesalers of lead-acid batteries to elect to be considered manufacturers for these purposes, as specified.~~

Of moneys collected pursuant to this act, the bill would require the board to retain moneys necessary for the payment of refunds and to reimburse the board for expenses in the collection of the California battery fee and the manufacturer battery fee. The bill would require that the remaining moneys be deposited into the Lead-Acid Battery Cleanup Fund, which would be created by the bill, and would continuously appropriate those moneys to the Department of Toxic Substances Control for purposes of response actions at areas of the state that have been contaminated by the production, recycling, or improper disposal of lead-acid batteries, administration of the fund, and reimbursement of certain loans for lead cleanup. The bill would make the reimbursement money available for further loans, as specified. The bill would require an unspecified amount of moneys be loaned from the General Fund or a special fund to the board for implementing the collection of the California battery fee and the manufacturer battery fee and would require that the loan be repaid before October 1, 2017. ~~The bill would require the department, before seeking to recover moneys spent on the above-described response actions from a person who has remitted manufacturer battery fees, to first vigorously pursue efforts to recover any moneys from the owner or operator of the site where the response action occurred, or the site identified as the source of release to which the response action was directed. If a person from whom the department recovers such moneys receives a favorable judgment against a person who has remitted manufacturer battery fees, the bill would require that the judgment be reduced by the amount remitted as manufacturer battery fees.~~

This bill would require, on and after July 1, 2017, a manufacturer to place a recycling symbol, as specified, and other information on all replacement lead-acid batteries sold in California.

This bill would require the department to report annually to the Governor and the Legislature on the status of the Lead-Acid Battery

Cleanup Fund and on the department's progress in implementing these provisions.

*This bill would authorize the board to adopt regulations to implement these lead-acid battery management provisions. Because a violation of these regulations would be a crime, this bill would impose a state-mandated local program.*

This bill would require manufacturers to notify distributors, wholesalers, and dealers of the lead-acid batteries it manufactures of the bill's requirements, as specified.

A violation of the existing lead-acid battery management provisions is punishable as a misdemeanor.

~~The bill would instead authorize the department to impose civil administrative penalties on any person who is in violation of these provisions and would require the penalty money to be deposited into the Lead-Acid Battery Cleanup Fund.~~

~~Under existing law, known as the Childhood Lead Poisoning Prevention Act of 1991, the department is required to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposure in California.~~

~~The bill would require, by April 1, 2017, the Office of Environmental Health Hazard Assessment to convene a Lead Advisory Committee, with a prescribed membership, to review and advise regarding policies and procedures to reduce childhood lead poisoning in the state. The bill would require the committee to publish a recommended regulatory agenda that would identify sources of lead that affect children and ensure that regulatory standards are protective of the health of the children of this state, as specified.~~

*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.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

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

1     SECTION 1. ~~Section 25190 of the Health and Safety Code is~~  
2 ~~amended to read:~~

3     ~~25190. (a) Except as otherwise provided in Sections 25185.6,~~  
4 ~~25189.5, 25189.6, 25189.7, and 25191, any person who violates~~  
5 ~~any provision of this chapter, or any permit, rule, regulation,~~  
6 ~~standard, or requirement issued or adopted pursuant to this chapter,~~  
7 ~~is, upon conviction, guilty of a misdemeanor and shall be punished~~  
8 ~~by a fine of not more than one thousand dollars (\$1,000) or by~~  
9 ~~imprisonment for up to six months in a county jail or by both that~~  
10 ~~fine and imprisonment.~~

11     ~~(b) If the conviction is for a second or subsequent violation, the~~  
12 ~~person shall, upon conviction, be punished by imprisonment in~~  
13 ~~the county jail for not more than one year or by imprisonment~~  
14 ~~pursuant to subdivision (h) of Section 1170 of the Penal Code for~~  
15 ~~16, 20, or 24 months. The court shall also impose upon the person~~  
16 ~~a fine of not less than five thousand dollars (\$5,000) or more than~~  
17 ~~twenty-five thousand dollars (\$25,000).~~

18     ~~(c) This section shall remain in effect only until January 1, 2017,~~  
19 ~~and as of that date is repealed, unless a later enacted statute, that~~  
20 ~~is enacted before January 1, 2017, deletes or extends that date.~~

21     SEC. 2. ~~Section 25190 is added to the Health and Safety Code,~~  
22 ~~to read:~~

23     ~~25190. (a) Except as otherwise provided in Sections 25185.6,~~  
24 ~~25189.5, 25189.6, 25189.7, 25191, and 25215.7, any person who~~  
25 ~~violates any provision of this chapter, or any permit, rule,~~  
26 ~~regulation, standard, or requirement issued or adopted pursuant to~~  
27 ~~this chapter, is, upon conviction, guilty of a misdemeanor and shall~~  
28 ~~be punished by a fine of not more than one thousand dollars~~  
29 ~~(\$1,000) or by imprisonment for up to six months in a county jail~~  
30 ~~or by both that fine and imprisonment.~~

31     ~~(b) If the conviction is for a second or subsequent violation, the~~  
32 ~~person shall, upon conviction, be punished by imprisonment in~~  
33 ~~the county jail for not more than one year or by imprisonment~~  
34 ~~pursuant to subdivision (h) of Section 1170 of the Penal Code for~~  
35 ~~16, 20, or 24 months. The court shall also impose upon the person~~  
36 ~~a fine of not less than five thousand dollars (\$5,000) or more than~~  
37 ~~twenty-five thousand dollars (\$25,000).~~

38     ~~(c) This section shall become operative on January 1, 2017.~~

1     ~~SEC. 3.~~

2     SECTION 1. Article 10.5 (commencing with Section 25215)  
3 is added to Chapter 6.5 of Division 20 of the Health and Safety  
4 Code, to read:

5  
6     Article 10.5. The Lead-Acid Battery Recycling Act of 2016

7  
8     25215. This article shall be known, and may be cited, as the  
9 Lead-Acid Battery Recycling Act of 2016.

10    25215.1. For purposes of this article, the following definitions  
11 shall apply:

12    (a) “Board” means State Board of Equalization.

13    (b) “Business” means any person, as defined in subdivision (j),  
14 that is not a natural person.

15    (c) “California battery fee” means the fee imposed pursuant to  
16 Section 25215.25.

17    (d) “Dealer” means every person who engages in the retail sale  
18 of replacement lead-acid batteries directly to persons in California.  
19 “Dealer” includes a manufacturer of a new lead-acid battery that  
20 sells at retail that lead-acid battery directly to a person through  
21 any means, including, but not limited to, a transaction conducted  
22 through a sales outlet, catalog, or Internet Web site or any other  
23 similar electronic means.

24    (e) (1) “Lead-acid battery” means any battery weighing over  
25 five kilograms that is primarily composed of both lead and sulfuric  
26 acid, whether sulfuric acid is in liquid, solid, or gel state, with a  
27 capacity of six volts or more that is used for any of the following  
28 purposes:

29    (2) As a starting battery that is designed to deliver a high burst  
30 of energy to an internal combustion engine until it starts.

31    (3) As a motive power battery that is designed to provide the  
32 source of power for propulsion or operation of a vehicle, including  
33 a watercraft.

34    (4) As a stationary storage or standby battery that is designed  
35 to be used in systems where the battery acts as either electrical  
36 storage for electricity generation equipment or a source of  
37 emergency power, or otherwise serves as a backup in case of failure  
38 or interruption in the flow of power from the primary source.

39    (5) As a source of auxiliary power to support the electrical  
40 systems in a vehicle, as defined in Section 670 of the Vehicle Code,

1 including a vehicle as defined in Section 36000 of the Vehicle  
2 Code, or an aircraft.

3 (6) To use with or contained within a medical device, as defined  
4 in the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section  
5 321(h), as that definition may be amended.

6 (f) “Lead-acid battery recycling facility” means any site at which  
7 lead-acid batteries are or have been disassembled for the purpose  
8 of making components available for reclamation to produce  
9 elemental lead or lead alloys or at which lead-acid batteries or their  
10 components, or both, are or have been reclaimed to produce  
11 elemental lead or lead alloys.

12 (g) “Manufacturer” means either of the following:

13 (1) The person who manufactures the lead-acid battery and who  
14 sells, offers for sale, or distributes the lead-acid battery in the state,  
15 unless subdivision (b) of Section 25215.35 applies to the lead-acid  
16 battery, in which case the wholesaler shall be deemed the  
17 manufacturer, except for purposes of Section 25215.65. If an entity  
18 engages a third party to manufacture lead-acid batteries on its  
19 behalf, that entity shall be deemed the manufacturer of those  
20 lead-acid batteries.

21 (2) If there is no person described in paragraph (1) that is subject  
22 to the jurisdiction of the state, the manufacturer is the person who  
23 imports the lead-acid battery into the state for sale or distribution.

24 (h) “Manufacturer battery fee” means the fee imposed pursuant  
25 to Section 25215.35.

26 (i) “Owner or operator” has the same meaning given in Section  
27 9601(20) of Title 42 of the United States Code.

28 (j) “Person” means an individual, trust, firm, joint stock  
29 company, business concern, corporation, including, but not limited  
30 to, a government corporation, partnership, limited liability  
31 company, or association. “Person” also includes any city, county,  
32 city and county, district, commission, the state, or any department,  
33 agency, or political subdivision of any of those, interstate body,  
34 and the United States and its agencies and instrumentalities to the  
35 extent permitted by law.

36 (k) “Remedial action” has the same meaning as in Section  
37 25322.

38 (l) “Removal” has the same meaning as in Section 25323.

39 (m) “Replacement lead-acid battery” means a new lead-acid  
40 battery that is sold at retail subsequent to the original sale or lease

1 of the equipment or vehicle in which the lead-acid battery is  
2 intended to be used. “Replacement lead-acid battery” does not  
3 include a spent, discarded, refurbished, reconditioned, rebuilt, or  
4 reused lead-acid battery.

5 (n) “Response action” has the same meaning as in Section  
6 25323.3.

7 (o) (1) A “retail sale” or a “sale at retail” has the same meaning  
8 as defined in Section 6007 of the Revenue and Taxation Code.

9 (2) “Retail sale” does not include any of the following:

10 (A) The sale of a battery for which a California battery fee has  
11 previously been paid.

12 (B) The sale of a replacement lead-acid battery that is  
13 temporarily stored or used in California for the sole purpose of  
14 preparing the replacement lead-acid battery for use thereafter solely  
15 outside of the state and that is subsequently transported outside  
16 the state and thereafter used solely outside of the state.

17 (C) The sale of a battery for incorporation into new equipment  
18 for subsequent resale.

19 (D) The replacement of a lead-acid battery pursuant to a  
20 warranty or a vehicle service contract described under Section  
21 12800 of the Insurance Code.

22 (p) “Used lead-acid battery” means a lead-acid battery no longer  
23 fully capable of providing the power for which it was designed or  
24 that a person no longer wants for any other reason.

25 (q) “Wholesaler” means any person who purchases a lead-acid  
26 battery from a manufacturer for the purpose of selling the lead-acid  
27 battery to a dealer, high-volume customer, or to a person for  
28 incorporation into new equipment for resale.

29 25215.15. (a) Except as provided in subdivision (b), no person  
30 shall dispose, or attempt to dispose, of a lead-acid battery at a solid  
31 waste facility or on or in any land, surface waters, watercourses,  
32 or marine waters.

33 (b) A person may dispose of a lead-acid battery at ~~any~~ *both* of  
34 the following locations:

35 (1) A facility, including a facility located at a solid waste facility,  
36 established and operated for the purpose of recycling, or providing  
37 for the eventual recycling of, lead-acid batteries.

38 (2) A dealer pursuant to Section 25215.2.

39 25215.2. (a) A dealer shall accept from persons at the point  
40 of transfer a used lead-acid battery of a type listed in paragraph

1 (1), (2), or (4) of subdivision (e) of Section 25215.1, but shall not  
2 be required to accept from any person more than six used lead-acid  
3 batteries per day. A dealer shall not charge any fee to receive a  
4 used lead-acid battery.

5 (b) (1) A dealer shall charge to each person who purchases a  
6 replacement lead-acid battery of a type listed in paragraph (1), (2),  
7 or (4) of subdivision (e) of Section 25215.1 and who does not  
8 simultaneously provide the dealer with a used lead-acid battery of  
9 the same type and size a refundable deposit for each such battery  
10 purchased. The dealer shall display the amount of the deposit  
11 separately on the receipt provided to the purchaser. The dealer  
12 shall refund the deposit to that person if, within 45 days of the sale  
13 of the replacement lead-acid battery, the person presents to the  
14 dealer a used lead-acid battery of the same type and size. A dealer  
15 may require the person to provide a receipt documenting the  
16 payment of the deposit before refunding any deposit. A dealer may  
17 keep any lead-acid battery deposit moneys that are not properly  
18 claimed within 45 days after the date of sale of the replacement  
19 lead-acid battery, not including any sales tax reimbursement  
20 charged to the consumer. Sales tax reimbursement charged to the  
21 consumer on the amount of the deposit shall be remitted to the  
22 board.

23 (2) (A) The refundable deposit required under paragraph (1)  
24 shall be a flat rate, in accordance with subparagraph (B), and shall  
25 not be a percentage of the purchase price of the lead-acid battery.

26 (B) (i) The refundable deposit shall be no less than fifteen  
27 dollars (\$15).

28 (ii) For a lead-acid battery that weighs 50 pounds or less, the  
29 refundable deposit shall be no more than forty dollars (\$40).

30 (iii) For a lead-acid battery that weighs more than 50 pounds  
31 but 100 pounds or less, the refundable deposit shall be more than  
32 forty dollars (\$40) but no more than eighty dollars (\$80).

33 (iv) For a lead-acid battery that weighs more than 100 pounds,  
34 the refundable deposit shall be more than eighty dollars (\$80) but  
35 no more than one hundred dollars (\$100).

36 (c) A dealer shall post a written notice that is clearly visible in  
37 the public sales area of the establishment, or include on the  
38 purchaser's receipt, the following language:

39  
40

1 This dealer is required by law to charge a nonrefundable \$1 California battery  
2 fee for each lead-acid battery.

3  
4 A refundable deposit will be charged for each replacement lead-acid battery  
5 purchased. A credit of the same amount as the applicable deposit will be issued  
6 if a used lead-acid battery is returned at the time of purchase.

7 If a customer does not have a lead-acid battery at the time of purchase, the  
8 customer has up to 45 days to bring in a used lead-acid battery with a receipt  
9 to claim the deposit.

10

11 (d) Subdivision (c) does not apply to any of the following:

12 (1) A person whose ordinary course of business does not include  
13 the sale of lead-acid batteries.

14 (2) A person that does not sell lead-acid batteries directly to  
15 consumers, such as over-the-counter, but instead removes  
16 nonfunctional or damaged batteries and installs new lead-acid  
17 batteries as a part of an automotive repair dealer service.

18 (3) A business that removes lead-acid batteries and installs new  
19 lead-acid batteries as a part of roadside services. “Roadside  
20 services,” for purposes of this paragraph, means the services  
21 performed upon a motor vehicle for the purpose of transporting  
22 the vehicle or to permit it to be operated under its own power, by  
23 or on behalf of a motor club holding a certificate of authority  
24 pursuant to Chapter 2 (commencing with Section 12160) of Part  
25 5 of Division 2 of the Insurance Code.

26 (e) Except as authorized by this article, a dealer shall not collect  
27 a refundable deposit for a lead-acid battery from a person.

28 25215.25. (a) (1) On and after April 1, 2017, a California  
29 battery fee of one dollar (\$1) shall be imposed on a person, not  
30 including a business, for each replacement lead-acid battery of a  
31 type listed in paragraph (1), (2), or (4) of subdivision (e) of Section  
32 25215.1 purchased from a dealer.

33 (2) The dealer shall charge a person the amount of the California  
34 battery fee as a charge that is separate from, and not included in,  
35 any other fee, charge, or other amount paid by the person.

36 (3) The dealer shall collect the California battery fee at the time  
37 of sale and may retain 1 ½ percent of the fee as reimbursement for  
38 any costs associated with the collection of the fee. The remainder  
39 of the California battery fee collected by the dealer shall be paid  
40 to the board in a manner and form prescribed by the board and at

1 the time the return is required to be filed, as specified in Section  
2 25215.47.

3 (4) All moneys collected by a dealer pursuant to this section  
4 that are not properly remitted to the board pursuant to paragraph  
5 (3) shall be deemed to be a debt owed to the state by the dealer.

6 (5) A person who purchases a replacement lead-acid battery in  
7 this state is liable for the California battery fee until that fee has  
8 been paid to the board, except that payment to a dealer registered  
9 under this article is sufficient to relieve the person from further  
10 liability of the fee.

11 (6) All moneys remitted to the board pursuant to this subdivision  
12 shall be expended in accordance with Section 25215.5.

13 (b) The California battery fee imposed pursuant to subdivision  
14 (a) shall be separately stated by the dealer on the invoice given to  
15 a consumer or business at the time of sale. Any other fee charged  
16 by the dealer related to the lead-acid battery purchase, including  
17 any deposit charged, credited, or both, pursuant to Section 25215.2,  
18 shall be identified separately from the California battery fee.

19 25215.35. (a) ~~(1)~~ On and after April 1, 2017, a manufacturer  
20 battery fee of one dollar (\$1) shall be imposed on a manufacturer  
21 of lead-acid batteries for each lead-acid battery it sells at retail to  
22 a person in California or that it sells to a dealer, wholesaler,  
23 distributor, or other person for retail sale in California.

24 ~~(2) The obligation to pay the manufacturer battery fee and the~~  
25 ~~board's authority to collect the fee shall immediately be terminated~~  
26 ~~as to all payors if either of the following occurs:~~

27 ~~(A) The state files suit against any person that has remitted a~~  
28 ~~manufacturer battery fee to recover moneys spent for purposes~~  
29 ~~identified in paragraph (1) of subdivision (b) of Section 25215.5,~~  
30 ~~except for a suit against an owner or operator, or legal successor~~  
31 ~~to the owner or operator, of the site at which the moneys sought~~  
32 ~~to be recovered were spent.~~

33 ~~(B) The state issues an order to any person who has remitted a~~  
34 ~~manufacturer battery fee that requires the recipient to take action~~  
35 ~~to address conditions at or allegedly attributable to a lead-acid~~  
36 ~~battery recycling facility or its operations, except for an order~~  
37 ~~issued to a person who is the owner or operator, or legal successor~~  
38 ~~to the owner or operator, of the site at which the action ordered~~  
39 ~~would occur.~~

1 (b) (1) (A) On and after April 1, 2017, a wholesaler of a  
2 lead-acid battery who ships or arranges for the shipment of used  
3 lead-acid batteries to a lead-acid battery recycling facility may  
4 elect to be considered a manufacturer for purposes of subdivision  
5 (a) and Sections 25215.5, 25215.51, and 25215.55. (a). To so elect,  
6 the wholesaler shall notify the manufacturer of the lead-acid battery  
7 from which the wholesaler purchased the lead-acid battery, the  
8 department, and the board of its intent to be considered a  
9 manufacturer for those purposes and shall remit a manufacturer  
10 battery fee for each lead-acid battery purchased from the notified  
11 manufacturer. The wholesaler shall register with the board pursuant  
12 to subdivision (b) of Section 25215.45 and provide at least 30  
13 days' notice to the manufacturer, the department, and the board  
14 before the wholesaler is considered a manufacturer under  
15 subdivision (a). If a wholesaler under this subdivision only remits  
16 a manufacturer battery fee for a portion of the manufacturer's  
17 lead-acid battery inventory sold in the state, the manufacturer shall  
18 remain responsible for remittance of the manufacturer battery fee  
19 for the remaining lead-acid batteries sold in the state. Multiple  
20 wholesalers may remit manufacturer battery fees for their sales of  
21 batteries from a single manufacturer. Regardless of the number of  
22 wholesalers paying manufacturer battery fees for sales of a  
23 manufacturer's batteries, the manufacturer shall remain responsible  
24 for manufacturer battery fees not paid by a wholesaler.

25 (B) A manufacturer shall not be required to pay the manufacturer  
26 battery fee that is to be paid by a wholesaler pursuant to this  
27 subdivision if both of the following conditions are met:

28 (i) The manufacturer has been notified by the wholesaler and  
29 the board of the wholesaler's election to be considered a  
30 manufacturer and the wholesaler's intent to remit the manufacturer  
31 battery fee for each lead-acid battery purchased from the notified  
32 manufacturer.

33 (ii) The manufacturer has registered with the board pursuant to  
34 subdivision (b) of Section 25215.45, and submits informational  
35 returns to the board in a manner and form to be determined by the  
36 board.

37 (C) (i) A manufacturer otherwise exempt from subdivision (a)  
38 pursuant to this subdivision may voluntarily submit an additional  
39 manufacturer battery fee of one dollar (\$1) per lead-acid battery  
40 that is otherwise paid by a wholesaler. ~~A manufacturer that~~

1 voluntarily submits a manufacturer battery fee under this  
2 subparagraph shall be subject to Sections 25215.5 and 25215.55.

3 (ii) A voluntary manufacturer payment does not relieve a  
4 wholesaler from its responsibility to remit a manufacturer battery  
5 fee pursuant to this subdivision.

6 (D) A manufacturer that submits a manufacturer battery fee  
7 pursuant to subparagraph (C) shall be prohibited from imposing  
8 or passing on the voluntarily remitted fees to a wholesaler.

9 (2) A wholesaler that provides notice pursuant to paragraph (1)  
10 shall be considered a manufacturer for purposes of subdivision (a)  
11 and Sections 25215.5 and 25215.55 until 60 days after the  
12 wholesaler provides notice to the board, the department, and the  
13 manufacturer of the lead-acid battery of the wholesaler's intention  
14 to no longer be considered a manufacturer. If the manufacturer of  
15 the lead-acid batteries for which the wholesaler elects to no longer  
16 pay a manufacturer battery fee has not registered with the board,  
17 the wholesaler shall continue to be considered a manufacturer until  
18 notified by the board that the manufacturer has registered with the  
19 board.

20 (3) The board shall establish appropriate procedures for  
21 providing notifications pursuant to this subdivision.

22 (c) (1) Manufacturer battery fees shall be paid to the board in  
23 a manner and form as prescribed by the board and at the time the  
24 return is required to be filed, as specified in Section 25215.47.

25 25215.45. (a) (1) Except as provided in paragraph (2), the  
26 lead-acid battery fees imposed pursuant to Sections 25215.25 and  
27 25215.35 shall be collected by the board in accordance with the  
28 Fee Collection Procedures Law (Part 30 (commencing with Section  
29 55001) of Division 2 of the Revenue and Taxation Code). For the  
30 purposes of this section, the reference to "feepayer" shall include  
31 a dealer, manufacturer, importer, and wholesaler, including a  
32 wholesaler that makes an election pursuant to paragraph (1) of  
33 subdivision (b) of Section 25215.35, but shall not include a  
34 manufacturer that makes a voluntary payment pursuant to  
35 subparagraph (B) of paragraph (1) of subdivision (b) of Section  
36 25215.35 as to that voluntary payment.

37 (2) Notwithstanding the petition for redetermination and claim  
38 for refund provisions of the Fee Collection Procedures Law (Article  
39 3 (commencing with Section 55081) of Chapter 3 of, and Article  
40 1 (commencing with Section 55221) of Chapter 5 of, Part 30 of

1 Division 2 of the Revenue and Taxation Code), the board shall not  
2 do either of the following:

3 (A) Accept or consider any petition for redetermination of fees  
4 determined under this article if the petition is founded upon the  
5 grounds that a battery is or is not a lead-acid battery, as defined in  
6 Section 25215.1. The board shall forward to the department any  
7 petition for redetermination that is based on those grounds.

8 (B) Accept or consider a claim for refund of fees paid pursuant  
9 to this article, if the claim for refund is founded upon the grounds  
10 that a battery is or is not a lead-acid battery, as defined in Section  
11 25215.1. The board shall forward to the department any claim for  
12 refund that is based on these grounds.

13 (b) The following persons shall register with the board:

14 (1) A dealer of lead-acid batteries in the state.

15 (2) A manufacturer of lead-acid batteries in the state, including  
16 a manufacturer that voluntarily pays a manufacturer battery fee,  
17 as provided in Section 25215.35.

18 (3) An importer of lead-acid batteries into the state.

19 (4) A wholesaler of lead-acid batteries in the state, including a  
20 wholesaler that elects to be considered a manufacturer, as provided  
21 in Section 25215.35.

22 25215.47. (a) The return required to be filed pursuant to  
23 Section 55040 of the Revenue and Taxation Code shall be prepared  
24 and filed by the person required to register with the board, in the  
25 form prescribed by the board, and shall contain the information  
26 the board deems necessary or appropriate for the proper  
27 administration of this article and the Fee Collection Procedures  
28 Law. Except as provided in subdivision (b), the return shall be  
29 filed on or before the last day of the calendar month following the  
30 calendar quarter to which the return relates, together with a  
31 remittance payable to the board for the fee amount due for that  
32 period. Returns shall be authenticated in a form, or pursuant to  
33 methods, as may be prescribed by the board, including, but not  
34 limited to, electronic media.

35 (b) The board may require the payment of the fee and the filing  
36 of the returns for other than quarterly periods.

37 25215.5. (a) Lead-acid battery fees collected pursuant to this  
38 article shall be managed as follows:

1 (1) The board shall retain moneys necessary for the payment of  
2 refunds and reimbursement of the board for expenses in the  
3 collection of the fees.

4 (2) The remaining moneys shall be deposited into the Lead-Acid  
5 Battery Cleanup Fund, which is hereby created in the State  
6 Treasury, and are hereby be continuously appropriated, without  
7 regard to fiscal year, to the department for purposes of the lead-acid  
8 battery activities specified in subdivision (b).

9 (b) Moneys in the Lead-Acid Battery Cleanup Fund shall be  
10 expended for the following activities:

11 (1) Investigation, site evaluation, cleanup, abatement, remedy,  
12 removal, monitoring, or other response actions at any area of the  
13 state that has been contaminated by the production, recycling, or  
14 improper disposal of lead-acid batteries.

15 (2) Administration of the Lead-Acid Battery Cleanup Fund.

16 (3) Repayment of a loan described in Section 25215.6 that was  
17 made before the effective date of the act which added this section,  
18 or any other loan made for purposes set forth in paragraph (1).

19 ~~(e) (1) Before seeking to recover moneys spent for purposes~~  
20 ~~identified in paragraph (1) of subdivision (b) from a person who~~  
21 ~~has remitted a manufacturer battery fee pursuant to Section~~  
22 ~~25215.35, other than a person who is the owner or operator, or~~  
23 ~~legal successor to the owner or operator, of a site at which the~~  
24 ~~activity occurred, the department shall vigorously pursue efforts~~  
25 ~~to recover any moneys expended for an activity described in~~  
26 ~~paragraph (1) of subdivision (b) from the owner or operator or~~  
27 ~~legal successor to the owner or operator of the site at which the~~  
28 ~~activity occurred, or the site that is identified as the source of~~  
29 ~~release to which the activity was directed, until the earlier of either~~  
30 ~~of the following:~~

31 ~~(A) The issuance of a final unappealable legal judgment against~~  
32 ~~the owner or operator or legal successor to the owner or operator.~~

33 ~~(B) Both of the following conditions have been met:~~

34 ~~(i) At least 36 months have passed since the department filed~~  
35 ~~suit against the owner or operator or legal successor to the owner~~  
36 ~~or operator of the site at which the activity occurred or of the site~~  
37 ~~that is identified as the source of the release to which the activity~~  
38 ~~was directed.~~

1     (ii) ~~Seventy-one months have passed since the first expenditure~~  
2     ~~of moneys from the Lead-Acid Battery Cleanup Fund on remedial~~  
3     ~~actions at the site.~~

4     (2) ~~If a person from whom the department recovered moneys~~  
5     ~~under paragraph (1) receives a favorable judgment against a second~~  
6     ~~person who has remitted a manufacturer battery fee in an action~~  
7     ~~relating to those response activities, the judgment shall be reduced~~  
8     ~~by the amount the second person has already remitted to the~~  
9     ~~Lead-Acid Battery Cleanup Fund pursuant to Section 25215.35~~  
10    ~~that is not previously committed to other payor liabilities.~~

11    (3) ~~Nothing in this subdivision shall be construed to limit or~~  
12    ~~otherwise affect any cause of action that may exist under any law~~  
13    ~~that the state may bring against the owner or operator, or legal~~  
14    ~~successor to the owner or operator, of a site at which any activity~~  
15    ~~described in paragraph (1) of subdivision (b) occurred.~~

16    (d) ~~Any funds expended from the Lead-Acid Battery Cleanup~~  
17    ~~Fund that are subsequently recovered from any person pursuant~~  
18    ~~to subdivision (e) shall be deposited into the Lead-Acid Battery~~  
19    ~~Cleanup Fund.~~

20    (e) ~~Moneys from the Lead-Acid Battery Cleanup Fund shall not~~  
21    ~~be used to implement Article 14 (commencing with Section 25251)~~  
22    ~~with respect to lead-acid batteries or to loan moneys to any other~~  
23    ~~program. Provided that the national recycling rate for lead in~~  
24    ~~lead-acid batteries, determined by the methodology accepted by~~  
25    ~~the United State Environmental Protection Agency and used in~~  
26    ~~the Battery Council International's National Recycling Rate Study,~~  
27    ~~exceeds 90 percent, a lead-acid battery shall not be considered for~~  
28    ~~inclusion on a list of products established under Section 25252 or~~  
29    ~~be otherwise regulated under Article 14 (commencing with Section~~  
30    ~~25251) until after the completion of the fifth Priority Product Work~~  
31    ~~Plan established pursuant to Section 69503.4 of Title 22 of the~~  
32    ~~California Code of Regulations. Nothing in this subdivision shall~~  
33    ~~preclude a study of the impacts and benefits of the manufacture~~  
34    ~~and recycling of lead-acid batteries from being conducted as a~~  
35    ~~pilot project pursuant to the department's Community Protection~~  
36    ~~and Hazardous Waste Reduction Initiative.~~

37    (f)

38    (c) The department shall report annually to the Governor and  
39    to the Legislature on the status of the Lead-Acid Battery Cleanup  
40    Fund and on the department's progress to implement this article,

1 including, but not limited to, the sites at which actions were  
2 performed using moneys from the fund, the status of cleanup at  
3 those sites, including total anticipated costs of cleanup at those  
4 sites, the balance of the fund, the amount of fees remitted to the  
5 fund, the amount spent by the fund and the purposes for which  
6 those amounts were spent, the amounts reimbursed to the board  
7 pursuant to paragraph (1) of subdivision (a), ~~the amounts collected~~  
8 ~~by the department pursuant to subdivision (e)~~; and any other  
9 information requested by the Governor or the Legislature.

10 ~~25215.51. (a) If, as of October 1 of any calendar year, the~~  
11 ~~balance in the Lead-Acid Battery Cleanup Fund exceeds one~~  
12 ~~hundred million dollars (\$100,000,000), the board shall, no later~~  
13 ~~than October 31 of that year, notify each manufacturer to suspend~~  
14 ~~remitting a manufacturer battery fee pursuant to this article~~  
15 ~~commencing January 1 of the following year, until the~~  
16 ~~manufacturer receives a notice from the board pursuant to~~  
17 ~~subdivision (b). The board shall also provide notice to the~~  
18 ~~department of the suspension of manufacturer battery fee remittal.~~

19 ~~(b) If, as of October 1 of a calendar year in which manufacturers~~  
20 ~~are not remitting a manufacturer battery fee and the balance of the~~  
21 ~~Lead-Acid Battery Cleanup Fund is less than thirty million dollars~~  
22 ~~(\$30,000,000), the board shall, no later than October 31 of the~~  
23 ~~same year, notify in writing each manufacturer that is required to~~  
24 ~~remit a manufacturer battery fee to resume remitting the fee~~  
25 ~~beginning on January 1 of the following year. The board shall also~~  
26 ~~provide notice to the department of the resumption of the fee~~  
27 ~~remittal.~~

28 ~~25215.55. (a) (1) A person who has remitted a manufacturer~~  
29 ~~battery fee and who is held responsible by any court, regional~~  
30 ~~board, agency, or any other authority, under the~~  
31 ~~Carpenter-Presley-Tanner Hazardous Substance Account Act~~  
32 ~~(commencing with Section 25300) or any other law, for the~~  
33 ~~payment or reimbursement of any moneys to the state or a regional~~  
34 ~~board or any other person by or on behalf of a public entity for~~  
35 ~~any activity listed in paragraph (1) of subdivision (b) of Section~~  
36 ~~25215.5 shall have its responsibility for that payment or~~  
37 ~~reimbursement reduced by the amount that person remitted~~  
38 ~~pursuant to Section 25215.35 that has not otherwise been~~  
39 ~~committed to the payor's liability and by the amount recovered by~~

1 the state pursuant to subparagraph (B) of paragraph (1) of  
2 subdivision (c) of Section 25215.5.

3 (2) The state may bring an action against a person who has  
4 remitted a manufacturer battery fee for the payment or  
5 reimbursement of any moneys to the state or a regional board for  
6 any of the activities listed in paragraph (1) of subdivision (b) of  
7 Section 25215.5 only if the state has a reasonable basis to believe  
8 that the person ultimately would be held responsible for amounts  
9 in excess of the amount of manufacturer battery fees the person  
10 has remitted to the Lead-Acid Battery Cleanup Fund that is not  
11 already committed to the payor's liability.

12 (3) Before bringing any action against a person pursuant to  
13 paragraph (2), the state shall notify the person of the state's intent  
14 to bring the action and meet and confer with that person to attempt  
15 to reach an agreement by which the person voluntarily resolves  
16 the state's claim.

17 (4) Nothing in this subdivision shall be construed to create a  
18 private cause of action against a manufacturer, affect any cause of  
19 action that may exist under other law, or reduce the amount of  
20 damages for which a manufacturer is held liable in any civil action  
21 for personal injury or wrongful death.

22 (5) Nothing in this subdivision shall be construed to limit or  
23 otherwise affect a claim the state may assert against an owner or  
24 operator, or legal successor of an owner or operator, of a site at  
25 which any activity described in paragraph (1) of subdivision (b)  
26 of Section 25215.5 occurred.

27 (b) Notwithstanding any other law, not including a person who  
28 is or was an owner or operator of a site subject to paragraph (1)  
29 of subdivision (b) of Section 25215.5, an administrative order shall  
30 not be issued or judicial relief sought to compel any person who  
31 has remitted a manufacturer battery fee to take any activity  
32 described in paragraph (1) of subdivision (b) of Section 25215.5  
33 at that site unless all of the following conditions are met:

34 (1) Any activities undertaken by any party at the site have been  
35 inadequate to fully address concerns to which the activities  
36 described in paragraph (1) of subdivision (b) of Section 25215.5  
37 would be directed.

38 (2) The state has a reasonable basis to believe that, if state or  
39 private funds are used to undertake the activities described in  
40 paragraph (1) of subdivision (b) of Section 25215.5 and recovery

1 of those funds is sought from the person against whom the  
2 administrative order was issued, that person ultimately would be  
3 held responsible for amounts in excess of the amount of  
4 manufacturer battery fees the person has remitted to the Lead-Acid  
5 Battery Cleanup Fund that is not already committed to the payor's  
6 liability.

7 (3) One of the following:

8 (A) The state has issued an administrative order against the  
9 owner or operator or legal successor to the owner or operator of  
10 the site, and obtained a final nonappealable judgment enforcing  
11 that order against the owner or operator or legal successor to the  
12 owner or operator, and the owner or operator or legal successor to  
13 the owner or operator has not complied with the order.

14 (B) Both of the following conditions have been met:

15 (i) At least 36 months have passed since the department issued  
16 an administrative order against the owner or operator or legal  
17 successor to the owner or operator of the site at which the activity  
18 occurred or of the site that is identified as the source of the release  
19 to which the activity was directed.

20 (ii) Seventy-one months have passed since the first expenditure  
21 of moneys from the Lead-Acid Battery Cleanup Fund or remedial  
22 action took place at the site.

23 25215.6. If the state loans money from the General Fund to  
24 the Toxic Substances Control Account for the cleanup of lead  
25 contamination in the state, the following shall apply:

26 (a) Money from the Lead-Acid Battery Cleanup Fund may be  
27 used towards repaying the loan.

28 (b) Any moneys designated as repayment of the loan shall be  
29 deposited to that loan, but shall be available to be loaned to the  
30 Toxic Substances Control Account for the purposes of cleaning  
31 up areas of the state that have been contaminated with lead by the  
32 production, handling, storage, reclamation, or improper disposal  
33 of lead-acid batteries.

34 25215.65. On and after July 1, 2017, a manufacturer shall place  
35 a recycling symbol consistent with the requirements of Section  
36 103(b)(1) of the Federal Mercury Containing and Rechargeable  
37 Battery Management Act, Pub. L. No. 104-142 (1996) (42 U.S.C.  
38 14301(b)(1)) and either "Pb" or the words "lead," "return," and  
39 "recycle" on all replacement lead-acid batteries sold in California.

1     ~~25215.7. (a) The department may impose civil administrative~~  
 2 ~~penalties not to exceed one thousand dollars (\$1,000) per day on~~  
 3 ~~any person who is in violation of any provision of this article.~~

4     ~~(b) The department shall provide notice of the alleged violations~~  
 5 ~~to any person alleged to be in violation of any provision of this~~  
 6 ~~article no less than 60 days before the issuance of any~~  
 7 ~~administrative penalty pursuant to subdivision (a). If the person~~  
 8 ~~corrects the alleged violation before the issuance of an~~  
 9 ~~administrative penalty, the department shall not issue the~~  
 10 ~~administrative penalty.~~

11     ~~(c) In assessing or reviewing the amount of a civil penalty~~  
 12 ~~imposed pursuant to subdivision (a) for a violation of this article,~~  
 13 ~~the department or the court shall consider all of the following:~~

- 14     ~~(1) The nature and extent of the violation.~~
- 15     ~~(2) The number and severity of the violation or violations.~~
- 16     ~~(3) The economic effect of the penalty on the violator.~~
- 17     ~~(4) Whether the violator took good faith measures to comply~~  
 18 ~~with this article and the period of time over which these measures~~  
 19 ~~were taken.~~
- 20     ~~(5) The willfulness of the violator's misconduct.~~
- 21     ~~(6) The deterrent effect that the imposition of the penalty would~~  
 22 ~~have on both the violator and the regulated community.~~
- 23     ~~(7) Any other factor that justice may require.~~

24     ~~(d) The department shall deposit all penalties collected pursuant~~  
 25 ~~to this section into the Lead-Acid Battery Cleanup Fund.~~

26     ~~25215.72. \_\_\_\_\_ dollars (\$\_\_\_\_\_) shall be loaned from the~~  
 27 ~~General Fund or a special fund to the board for implementing the~~  
 28 ~~collection of the California battery fee and the manufacturer *battery*~~  
 29 ~~fee and shall be repaid from the proceeds of the collection of fees~~  
 30 ~~pursuant to this article no later than October 1, 2017.~~

31     ~~25215.74. (a) The board may prescribe, adopt, and enforce~~  
 32 ~~regulations relating to the administration and enforcement of this~~  
 33 ~~article, including, but not limited to, registration, collections,~~  
 34 ~~reporting, notices for manufacturers, notices for wholesalers~~  
 35 ~~regarding elections pursuant to paragraph (1) of subdivision (b)~~  
 36 ~~of Section 25215.35, refunds, and appeals.~~

37     ~~(b) The board may prescribe, adopt, and enforce any emergency~~  
 38 ~~regulations as necessary to implement this article. Any emergency~~  
 39 ~~regulation prescribed, adopted, or enforced pursuant to this article~~  
 40 ~~shall be adopted in accordance with Chapter 3.5 (commencing~~

1 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
2 Government Code, and, for purposes of this chapter, including  
3 Section 11349.6 of the Government Code, the adoption of the  
4 regulation is an emergency and shall be considered by the Office  
5 of Administrative Law as necessary for the immediate preservation  
6 of the public peace, health and safety, and general welfare.  
7 Emergency regulations adopted pursuant to this subdivision shall  
8 remain in effect until regulations have been adopted pursuant to  
9 subdivision (a).

10 25215.75. This article shall become operative on January 1,  
11 2017.

12 ~~SEC. 4.~~

13 *SEC. 2.* Section 25215.5.5 is added to Article 10.5  
14 (commencing with Section 25215) of Chapter 6.5 of Division 20  
15 of the Health and Safety Code, as added by Chapter 209 of the  
16 Statutes of 1988, to read:

17 25215.5.5. This article shall remain in effect only until January  
18 1, 2017, and as of that date is repealed, unless a later enacted  
19 statute, that is enacted before January 1, 2017, deletes or extends  
20 that date.

21 ~~SEC. 5.~~ Section 124166 is added to the Health and Safety Code,  
22 to read:

23 ~~124166. (a) On or before April 1, 2017, the Office of~~  
24 ~~Environmental Health Hazard Assessment shall convene a Lead~~  
25 ~~Advisory Committee to review and advise regarding policies and~~  
26 ~~procedures to reduce childhood lead poisoning in the state. Until~~  
27 ~~April 1, 2019, the committee shall meet quarterly and, by that date,~~  
28 ~~shall publish a recommended regulatory agenda for the state that~~  
29 ~~would identify sources of lead that affect children and ensure that~~  
30 ~~regulatory standards are protective of the health of the children of~~  
31 ~~this state. After April 1, 2019, the committee shall meet twice a~~  
32 ~~year.~~

33 ~~(b) Membership of the committee shall be as follows:~~

34 ~~(1) One member shall be a lead exposure assessment expert.~~

35 ~~(2) One member shall be a biostatistician or epidemiology expert.~~

36 ~~(3) One member shall be a pediatrician.~~

37 ~~(4) One member shall be an occupational health expert.~~

38 ~~(5) One member shall be a lead remediation expert.~~

39 ~~(6) Two members shall be representatives from environmental~~  
40 ~~justice organizations that work on lead contamination.~~

- 1     ~~(7) Two members shall be local government representatives~~  
2     ~~from lead poisoning prevention programs.~~
- 3     ~~(8) One member shall be a representative from the program~~  
4     ~~established pursuant to this article.~~
- 5     ~~(9) One member shall be a representative of industries that use~~  
6     ~~lead in producing their products.~~
- 7     ~~(10) One member shall be a representative of the lead recycling~~  
8     ~~industry.~~
- 9     ~~(11) One member shall be a representative of the civil aviation~~  
10    ~~industry.~~
- 11    ~~(12) One member shall be a representative of industries not~~  
12    ~~otherwise represented on the committee that are emitters of~~  
13    ~~significant quantities of lead into the air of the state.~~
- 14    ~~(e) (1) In its recommended regulatory agenda, the committee~~  
15    ~~shall do all of the following:~~
- 16    ~~(A) Evaluate of each of the following:~~
- 17    ~~(i) The program established pursuant to this article.~~
- 18    ~~(ii) Each county's childhood lead testing programs.~~
- 19    ~~(iii) The drinking water program described in Section 116271.~~
- 20    ~~(iv) Each county's healthy homes program.~~
- 21    ~~(B) Address remedial action strategies that should be considered~~  
22    ~~by the Department of Toxic Substances Control when approving~~  
23    ~~remedial action plans.~~
- 24    ~~(C) Advise state and local entities on how to better use~~  
25    ~~biomonitoring data that the state receives to identify opportunities~~  
26    ~~to prevent lead poisoning.~~
- 27    ~~(D) Review existing regulatory provisions for the protection~~  
28    ~~and health of children in California and recommend any appropriate~~  
29    ~~changes to any regulations that have not been revised on or after~~  
30    ~~January 1, 2011.~~
- 31    ~~(E) Provide advice on how to align the state's lead regulatory~~  
32    ~~framework with the Center for Disease Control and Prevention's~~  
33    ~~most recent findings on the toxicity of lead to children.~~
- 34    ~~(F) Identify key policies, regulations, and protocols for state~~  
35    ~~agencies to follow to better protect California's children from lead~~  
36    ~~exposure.~~
- 37    ~~(d) Each member of the committee shall receive reasonable and~~  
38    ~~necessary traveling expenses and meal allowances as approved by~~  
39    ~~the Office of Environmental Health Hazard Assessment for each~~

1 ~~day spent in actual attendance at, or in traveling to and from,~~  
2 ~~meetings of the committee.~~

3 ~~SEC. 6.~~

4 *SEC. 3.* Each manufacturer of lead-acid batteries sold in this  
5 state shall notify the distributors, wholesalers, and dealers of the  
6 lead-acid batteries it manufactures of the requirements set forth in  
7 Article 10.5 (commencing with Section 25215) of Chapter 6.5 of  
8 Division 20 of the Health and Safety Code, as it will read on and  
9 after January 1, 2017.

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

19 ~~SEC. 7.~~

20 *SEC. 5.* This act is an urgency statute necessary for the  
21 immediate preservation of the public peace, health, or safety within  
22 the meaning of Article IV of the Constitution and shall go into  
23 immediate effect. The facts constituting the necessity are:

24 In order to increase the cleanup of toxic materials and to prevent  
25 additional toxic pollution at the earliest possible time, it is  
26 necessary that this act take effect immediately.