

AMENDED IN ASSEMBLY JUNE 22, 2015

AMENDED IN SENATE MAY 5, 2015

SENATE BILL

No. 162

Introduced by Senator Galgiani

February 3, 2015

An act to amend Section 25150.7 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 162, as amended, Galgiani. Treated wood ~~waste: disposal: waste.~~

(1) Existing law requires the wood preserving industry to provide certain information relating to the potential danger of treated wood to wholesalers and retailers of treated wood and wood-like products. Existing law requires these wholesalers and retailers to conspicuously post the information at or near the point of display or customer selection of treated wood and wood-like products, as specified.

This bill would update the information required to be posted by wholesalers and retailers of treated wood and treated wood-like products.

(1)

(2) Existing law requires, among other things, treated wood waste, as defined, to be disposed of in either a class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets certain requirements. Existing law requires the Department of Toxic Substances Control to adopt, and revise as necessary, regulations establishing management standards for treated wood waste, as specified, subject to specified limitations. Existing law makes these, and other requirements regarding treated wood waste, inoperative on June 1, 2017, but provides that a regulation adopted pursuant to these provisions on

or before June 1, 2012, continues in force and effect until repealed or revised. A violation of the state’s hazardous waste control laws is a crime.

This bill would remove those limitations for treated wood waste regulations adopted by the department, would extend the operation of these provisions regarding treated wood waste to ~~June 1, December 31, 2020~~, and would repeal the language ~~continuing in force and effect treated waste wood regulations adopted on or before June 1, 2012.~~ *concerning the continued operation of treated wood waste regulations.* By extending the operation of a crime, the bill would impose a state-mandated local program. The bill would require, on or before January 1, 2018, the department to prepare, post on its Internet Web site, and provide to the appropriate policy committees of the Legislature, a comprehensive report with specified content on the compliance with, and implementation of, these laws relating to treated wood waste.

(2)

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 25150.7 of the Health and Safety Code
2 is amended to read:
3 25150.7. (a) The Legislature finds and declares that this section
4 is intended to address the unique circumstances associated with
5 the generation and management of treated wood waste. The
6 Legislature further declares that this section does not set a
7 precedent applicable to the management, including disposal, of
8 other hazardous wastes.
9 (b) For purposes of this section, the following definitions shall
10 apply:
11 (1) “Treated wood” means wood that has been treated with a
12 chemical preservative for purposes of protecting the wood against
13 attacks from insects, microorganisms, fungi, and other
14 environmental conditions that can lead to decay of the wood, and

1 the chemical preservative is registered pursuant to the Federal
2 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et
3 seq.).

4 (2) “Wood preserving industry” means business concerns, other
5 than retailers, that manufacture or sell treated wood products in
6 the state.

7 (c) This section applies only to treated wood waste that, solely
8 due to the presence of a preservative in the wood, is a hazardous
9 waste and to which both of the following requirements apply:

10 (1) The treated wood waste is not subject to regulation as a
11 hazardous waste under the federal act.

12 (2) Section 25143.1.5 does not apply to the treated wood waste.

13 (d) (1) Notwithstanding Sections 25189.5 and 25201, treated
14 wood waste shall be disposed of in either a class I hazardous waste
15 landfill, or in a composite-lined portion of a solid waste landfill
16 unit that meets all requirements applicable to disposal of municipal
17 solid waste in California after October 9, 1993, and that is regulated
18 by waste discharge requirements issued pursuant to Division 7
19 (commencing with Section 13000) of the Water Code for
20 discharges of designated waste, as defined in Section 13173 of the
21 Water Code, or treated wood waste.

22 (2) A solid waste landfill that accepts treated wood waste shall
23 comply with all of the following requirements:

24 (A) Manage the treated wood waste to prevent scavenging.

25 (B) Ensure that any management of the treated wood waste at
26 the solid waste landfill before disposal, or in lieu of disposal,
27 complies with the applicable requirements of this chapter, except
28 as otherwise provided by regulations adopted pursuant to
29 subdivision (f).

30 (C) If monitoring at the composite-lined portion of a landfill
31 unit at which treated wood waste has been disposed of indicates
32 a verified release, then treated wood waste shall not be discharged
33 to that landfill unit until corrective action results in cessation of
34 the release.

35 (e) (1) Each wholesaler and retailer of treated wood and treated
36 wood-like products in this state shall conspicuously post
37 information at or near the point of display or customer selection
38 of treated wood and treated wood-like products used for fencing,
39 decking, retaining walls, landscaping, outdoor structures, and
40 similar uses. The information shall be provided to wholesalers and

1 retailers by the wood preserving industry in 22-point font *type*, or
2 larger, and contain the following message:

3

4 Warning—Potential Danger

5

6 These products are treated with wood preservatives registered
7 with the United States Environmental Protection Agency and the
8 California Department of Pesticide Regulation and should only be
9 used in compliance with the product labels.

10 This wood may contain chemicals classified by the State of
11 California as hazardous and should be handled and disposed of
12 with care. Check product label for specific preservative information
13 and Proposition 65 warnings concerning presence of chemicals
14 known to the State of California to cause cancer or birth defects.

15 Anyone working with treated wood, and anyone removing old
16 treated wood, needs to take precautions to minimize exposure to
17 themselves, children, pets, or wildlife, including:

18

19 □ Avoid contact with skin. Wear gloves and long sleeved shirts
20 when working with treated wood. Wash exposed areas thoroughly
21 with mild soap and water after working with treated wood.

22

23 □ Wear a dust mask when machining any wood to reduce the
24 inhalation of wood dusts. Avoid frequent or prolonged inhalation
25 of sawdust from treated wood. Machining operations should be
26 performed outdoors whenever possible to avoid indoor
27 accumulations of airborne sawdust.

28

29 □ Wear appropriate eye protection to reduce the potential for eye
30 injury from wood particles and flying debris during machining.

31

32 □ If preservative or sawdust accumulates on clothes, launder
33 before reuse. Wash work clothes separately from other household
34 clothing.

35

36 □ Promptly clean up and remove all sawdust and scraps and
37 dispose of appropriately.

38

39 □ Do not use treated wood under circumstances where the
40 preservative may become a component of food or animal feed.

- 1
- 2 Only use treated wood that's visibly clean and free from surface
- 3 residue for patios, decks, or walkways.
- 4
- 5 Do not use treated wood where it may come in direct or indirect
- 6 contact with public drinking water, except for uses involving
- 7 incidental contact such as docks and bridges.
- 8
- 9 Do not use treated wood for mulch.
- 10
- 11 Do not burn treated wood. Preserved wood should not be burned
- 12 in open fires, stoves, or fireplaces.
- 13

14 For further information, go to the Internet Web site ~~for the~~
15 ~~Western Wood Preservers Institute (<http://www.wwpinstitute.org>)~~
16 ~~or call the toll-free telephone number of the California Treated~~
17 ~~Wood Information Hotline at 1-866-696-8315.~~
18 *<http://www.preservedwood.org> and download the free Treated*
19 *Wood Guide mobile application.*

20

21 In addition to the above listed precautions, treated wood waste
22 shall be managed in compliance with applicable hazardous waste
23 control laws.

24 (2) On or before July 1, 2005, the wood preserving industry
25 shall, jointly and in consultation with the department, make
26 information available to generators of treated wood waste,
27 including fencing, decking, and landscape contractors, solid waste
28 landfills, and transporters, that describes how to best handle,
29 dispose of, and otherwise manage treated wood waste, through the
30 use either of a toll-free telephone number, Internet Web site,
31 information labeled on the treated wood, information
32 accompanying the sale of the treated wood, or by mailing if the
33 department determines that mailing is feasible and other methods
34 of communication would not be as effective. A treated wood
35 manufacturer or supplier to a wholesaler or retailer shall also
36 provide the information with each shipment of treated wood
37 products to a wholesaler or retailer, and the wood preserving
38 industry shall provide it to fencing, decking, and landscaping
39 contractors, by mail, using the Contractors' State License Board's
40 available listings, and license application packages. The department

1 may provide guidance to the wood preserving industry, to the
2 extent resources permit.

3 (f) (1) On or before January 1, 2007, the department, in
4 consultation with the Department of Resources Recycling and
5 Recovery, the State Water Resources Control Board, and the Office
6 of Environmental Health Hazard Assessment, and after
7 consideration of any known health hazards associated with treated
8 wood waste, shall adopt and may subsequently revise as necessary,
9 regulations establishing management standards for treated wood
10 waste as an alternative to the requirements specified in this chapter
11 and the regulations adopted pursuant to this chapter.

12 (2) The regulations adopted pursuant to this subdivision shall,
13 at a minimum, ensure all of the following:

14 (A) Treated wood waste is properly stored, treated, transported,
15 tracked, disposed of, and otherwise managed to prevent, to the
16 extent practical, releases of hazardous constituents to the
17 environment, prevent scavenging, and prevent harmful exposure
18 of people, including workers and children, aquatic life, and animals
19 to hazardous chemical constituents of the treated wood waste.

20 (B) Treated wood waste is not reused, with or without treatment,
21 except for a purpose that is consistent with the approved use of
22 the preservative with which the wood has been treated. For
23 purposes of this subparagraph, “approved uses” means a use
24 approved at the time the treated wood waste is reused.

25 (C) Treated wood waste is managed in accordance with all
26 applicable laws.

27 (D) Any size reduction of treated wood waste is conducted in
28 a manner that prevents the uncontrolled release of hazardous
29 constituents to the environment, and that conforms to applicable
30 worker health and safety requirements.

31 (E) All sawdust and other particles generated during size
32 reduction are captured and managed as treated wood waste.

33 (F) All employees involved in the acceptance, storage, transport,
34 and other management of treated wood waste are trained in the
35 safe and legal management of treated wood waste, including, but
36 not limited to, procedures for identifying and segregating treated
37 wood waste.

38 (g) (1) A person managing treated wood waste who is subject
39 to a requirement of this chapter, including a regulation adopted
40 pursuant to this chapter, shall comply with either the alternative

1 standard specified in the regulations adopted pursuant to
2 subdivision (f) or with the requirements of this chapter.

3 (2) A person who is in compliance with the alternative standard
4 specified in the regulations adopted pursuant to subdivision (f) is
5 deemed to be in compliance with the requirement of this chapter
6 for which the regulation is identified as being an alternative, and
7 the department and any other entity authorized to enforce this
8 chapter shall consider that person to be in compliance with that
9 requirement of this chapter.

10 (h) On January 1, 2005, all variances granted by the department
11 before January 1, 2005, governing the management of treated wood
12 waste are inoperative and have no further effect.

13 (i) This section does not limit the authority or responsibility of
14 the department to adopt regulations under any other law.

15 (j) (1) On or before January 1, 2018, the department shall
16 prepare, post on its Internet Web site, and provide to the
17 appropriate policy committees of the Legislature, a comprehensive
18 report on the compliance with, and implementation of, this section.
19 The report shall include, but not be limited to, all of the following:

20 (A) Data, and evaluation of that data, on the rates of compliance
21 with this section and injuries associated with handling treated wood
22 waste based on department inspections of treated wood waste
23 generator sites and treated wood waste disposal facilities. *To gather*
24 *data to perform the required evaluation, the department shall do*
25 *all of the following:* ~~The~~

26 (i) ~~The~~ department shall inspect ~~a representative number of~~
27 treated wood waste generator sites and treated wood waste disposal
28 facilities, which shall not to be less than 25 percent of each.

29 (ii) ~~The~~ department shall survey and otherwise seek information
30 on how households are currently handling, transporting, and
31 disposing of treated wood waste, including available information
32 from household hazardous waste collection facilities, solid waste
33 transfer facilities, solid waste disposal facility load check
34 programs, and CUPAs.

35 (iii) ~~The~~ department shall, by survey or otherwise, seek data
36 to determine whether sufficient information and convenient
37 collection and disposal options are available to household
38 generators of treated wood waste.

39 (B) An evaluation of the adequacy of protective measures taken
40 in tracking, handling, and disposing of treated wood waste.

1 (C) Data regarding the unauthorized disposal of treated wood
2 waste at disposal facilities that have not been approved for that
3 disposal.

4 (D) Conclusions regarding the handling of treated wood waste.

5 (E) Recommendations for changes to the handling of treated
6 wood waste to ensure the protection of public health and the
7 environment.

8 (2) The requirement for submitting a report imposed under this
9 subdivision is inoperative on January 1, 2022, pursuant to Section
10 10231.5 of the Government Code.

11 (k) This section shall become inoperative on ~~June 1~~, *December*
12 *31*, 2020, and, as of January 1, 2021, is repealed, unless a later
13 enacted statute, that becomes operative on or before January 1,
14 2021, deletes or extends the dates on which it becomes inoperative
15 and is repealed.

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.