

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 673

Introduced by Senator Lara

(Principal coauthor: Assembly Member Santiago)

February 27, 2015

An act to amend Section 25187.2 of, to add Sections 25200.21 and 25200.23 to, and to add and repeal Article 8.8 (commencing with Section 25199.20) of Chapter 6.5 of Division 20 of, to the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as amended, Lara. Hazardous waste.

(1) ~~The~~

The Hazardous Waste Control Law, among other things, authorizes the Department of Toxic Substances Control to regulate the generation and disposal of hazardous waste.

~~This bill would establish, until January 1, 2021, the DTSC California Communities Committee within the department and require the committee to make recommendations to the department to increase public participation in, and the transparency of, the department's decisionmaking. The bill would require the department, by July January 1, 2018, to adopt additional criteria, as specified, establish or update criteria for use in determining whether to issue a new or modified hazardous waste facilities permit or a renewal of a hazardous waste facilities permit, and to develop and implement implement, by July 1,~~

2018, programmatic reforms designed to improve the protectiveness, timeliness, legal defensibility, and enforceability of the department’s permitting program.

~~(2) 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. The existing 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.~~

This bill would require a person to pay for oversight of any corrective action required of the person with respect to hazardous waste.

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 SEC. 2. ~~Article 8.8 (commencing with Section 25199.20) is~~
11 ~~added to Chapter 6.5 of Division 20 of the Health and Safety Code,~~
12 ~~to read:~~

13
14 Article 8.8. ~~DTSC California Communities Committee~~
15

16 ~~25199.20. (a) There is hereby established in the department,~~
17 ~~the DTSC California Communities Committee composed of 13~~
18 ~~members representing California residents affected by hazardous~~
19 ~~waste. The committee members shall not include representatives~~

1 from the department or an entity regulated by the department
2 pursuant to this chapter.

3 (b) Members of the committees shall be appointed as follows:

4 (1) Five members appointed by the Secretary for Environmental
5 Protection, including a designated chair of the committee.

6 (2) Four members appointed by the Senate Committee on Rules.

7 (3) Four members appointed by the Speaker of the Assembly.

8 (e) Each member of the committee shall serve at the pleasure
9 of his or her appointing authority.

10 (d) Beginning March 1, 2016, the committee shall meet with
11 the Secretary for Environmental Protection or his or her
12 representative, the director, and department staff at least three
13 times during that year, then quarterly beginning in the 2017
14 calendar year on a schedule as agreed upon by the committee and
15 the director.

16 (e) The committee shall do both of the following:

17 (1) Provide information on the concerns of individual
18 communities impacted by the department's hazardous waste
19 permitting, enforcement, or remediation activities, and provide
20 input on outreach activities to increase public participation in those
21 communities.

22 (2) Make recommendations for changes in policies, procedures,
23 and standards of the department to increase public participation
24 in, and the transparency of, the department's decisionmaking,
25 including providing input to the director on ways to improve the
26 department's permitting of hazardous waste facilities and
27 enforcement and remedial actions, particularly with regard to public
28 participation and in communities identified pursuant to Section
29 39711 that are burdened by multiple sources of pollution.

30 (f) The committee shall, 30 days prior to each meeting, provide
31 the director with an agenda outlining the topics to be discussed at
32 the meeting.

33 (g) Upon receipt of the agenda, the department shall post the
34 agenda on its Internet Web site.

35 (h) The department shall provide appropriate meeting space for
36 meetings of the committee.

37 (i) Meetings of the committee shall be open to the public and
38 are subject to the Bagley-Keene Open Meeting Act (Article 9
39 (commencing with Section 11120) of Chapter 1 of Part 1 of
40 Division 3 of Title 2 of the Government Code).

1 (j) ~~The department shall provide the committee with appropriate~~
 2 ~~per diem compensation consistent with Section 19822.5 of the~~
 3 ~~Government Code.~~

4 ~~25199.21. This article shall remain in effect only until January~~
 5 ~~1, 2021, and as of that date is repealed, unless a later enacted~~
 6 ~~statute, that is enacted before January 1, 2021, deletes or extends~~
 7 ~~that date.~~

8 **SEC. 3.**

9 *SECTION 1.* Section 25200.21 is added to the Health and Safety
 10 Code, to read:

11 25200.21. On or before January 1, 2018, the department shall
 12 adopt regulations establishing ~~additional criteria that the department~~
 13 ~~shall use to determine whether to issue a new or modified permit~~
 14 ~~or a renewal of a permit pursuant to this article. These or updating~~
 15 *criteria used for the issuance of a new or modified permit or*
 16 *renewal of a permit, which may include criteria for the denial or*
 17 *suspension of a permit. In addition to any other criteria the*
 18 *department may establish or update in these regulations, the*
 19 *department shall consider for inclusion as criteria shall include,*
 20 ~~but are not limited to,~~ all of the following:

21 (a) Number and types of past violations that will result in a
 22 denial.

23 (b) The vulnerability of, and existing health risks to, nearby
 24 populations. Vulnerability and existing health risks shall be
 25 assessed using ~~the CalEnviroScreen tool,~~ *available tools,* local and
 26 regional health risk assessments, the region's federal Clean Air
 27 Act attainment status, and other indicators of community
 28 vulnerability, cumulative impact, and potential risks to health and
 29 well-being.

30 (c) Minimum setback distances from sensitive receptors, such
 31 as schools, child care facilities, residences, hospitals, elder care
 32 facilities, and other sensitive locations.

33 (d) Evidence of financial responsibility and qualifications of
 34 ownership.

35 (e) Provision of financial assurances pursuant to Section
 36 25200.1.

37 (f) Training of personnel in the safety culture and plans,
 38 emergency plans, and maintenance of operations.

39 (g) Completion of a health risk assessment.

1 ~~SEC. 4.~~

2 *SEC. 2.* Section 25200.23 is added to the Health and Safety
3 Code, to read:

4 25200.23. On or before July 1, 2018, the department shall
5 develop and implement programmatic reforms designed to improve
6 the protectiveness, timeliness, legal defensibility, and enforceability
7 of the department's permitting program, including strengthening
8 environmental justice safeguards, enhancing enforcement of public
9 health protections, and increasing public participation and outreach
10 activities. In accomplishing these reforms, the department shall
11 do all of the following:

12 (a) Establish transparent standards and procedures for permitting
13 decisions, including those that are applicable to permit revocation
14 and denial.

15 (b) Establish terms and conditions on permits to better protect
16 public health and the environment, including in imminent and
17 substantial endangerment situations.

18 (c) Employ consistent procedures for reviewing permit
19 applications, integrating public input into those procedures, and
20 making timely permit decisions.

21 (d) Enhance public involvement using procedures that provide
22 for early identification and integration of public concerns into
23 permitting decisions, including concerns of communities identified
24 pursuant to Section 39711.