

Assembly Bill No. 483

CHAPTER 625

An act to add Sections 25143.11, 25200.14.1, and 25201.14 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 4, 1995. Filed
with Secretary of State October 5, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 483, Alpert. Hazardous waste: facilities permits: exemptions: recycling.

(1) Under existing law, the Department of Toxic Substances Control is required to issue hazardous waste facilities permits to use and operate hazardous waste management units at a facility which, in the judgment of the department, meet the building standards relating to hazardous waste facilities and other applicable standards and requirements. Existing law requires the department to impose conditions on each hazardous waste facilities permit specifying the types of hazardous wastes which may be accepted for transfer, storage, treatment, or disposal, and authorizes the department to impose any other conditions on a hazardous waste facilities permit that are consistent with the hazardous waste control laws. Certain hazardous waste treatment methods are conditionally exempted from the hazardous waste facilities permit requirements. A violation of the hazardous waste control laws is a crime.

This bill would require the department, on or before January 1, 1997, to the extent consistent with the federal Resource Conservation and Recovery Act of 1976 and with the protection of the public health, safety, and the environment, to adopt regulations exempting secondary materials, as defined, from the hazardous waste control laws, as specified.

The bill would exempt, from hazardous waste facilities requirements, the puncturing, draining, or crushing of aerosol cans, the separation of used oil from water, if the separation is accomplished using certain methods, and the operation of a totally enclosed treatment facility, upon the adoption of regulations by the department, if specified requirements are met by the owner or operator conducting those activities.

Because the bill would revise the definition of a crime, the bill would impose a state-mandated local program.

(2) Existing law requires the department, except as specified, to require the owner or operator of a facility operating pursuant to a permit-by-rule or a grant of conditional authorization to complete

and file a phase I environmental assessment with the department, as specified.

This bill would require the department, on or before July 1, 1997, to complete an evaluation of the phase I environmental assessment, and if the department determines that statutory changes are needed, to recommend those changes to the Governor and the Legislature, on or before March 1, 1998.

(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.

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

SECTION 1. Section 25143.11 is added to the Health and Safety Code, to read:

25143.11. (a) The department shall, on or before January 1, 1997, to the extent that it is consistent with the federal act and the protection of the public health, safety, and the environment, adopt regulations exempting secondary materials from this chapter. Those regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. In adopting the regulations, the department shall consider the restrictions listed in paragraph (8) of subsection (a) of Section 261.4 of Title 40 of the Code of Federal Regulations which apply to the exclusion of secondary materials from regulation under the federal act.

(b) For purposes of this section, “secondary materials” means materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process.

SEC. 2. Section 25200.14.1 is added to the Health and Safety Code, to read:

25200.14.1. (a) On or before July 1, 1997, the department shall complete an evaluation of the phase I environmental assessment requirement specified by Section 25200.14, and identify any necessary and appropriate changes to that requirement. If the department determines that statutory changes are needed, the department shall recommend those changes to the Governor and the Legislature on or before March 1, 1998.

(b) In evaluating the phase I environmental assessment requirement, the department shall, at a minimum, consider the following issues:



(1) Whether the phase I environmental assessment should continue to encompass the entire facility or be limited to a portion of the facility.

(2) The extent to which, and under what conditions, the information contained in the facility's phase I environmental assessment should be maintained as confidential information not available for release to the public or to governmental agencies other than the department.

SEC. 3. Section 25201.14 is added to the Health and Safety Code, to read:

25201.14. (a) To the extent consistent with the federal act, the following activities are exempt from this article, including the requirements of obtaining a hazardous waste facilities permit or other grant of authorization from the department, if the activity is conducted at the site where the material was generated and the management of the waste meets the requirements of Section 25143.9 and subdivisions (b) and (c) of this section:

(1) Puncturing, draining, or crushing of aerosol cans, at ambient temperature, subject to both of the following:

(A) The equipment used is designed to capture the gaseous and liquid contents of the cans, prevent fire, explosion, and unauthorized releases of hazardous constituents, and prevent worker exposure to hazardous materials released from the cans, and is certified by the department for use in compliance with this section pursuant to Section 25200.1.5. The department shall approve or deny an application for certification of the equipment within 180 days from the date of receiving an application determined to be complete.

(B) The aerosol cans are recycled as scrap metal.

(2) Except as provided in subdivision (b), the separation of used oil from water, if all other applicable laws and regulations are met, the used oil is properly transported to an authorized oil recycler, and the separation is accomplished by using one of the following methods:

(A) Gravity separation.

(B) A centrifuge.

(C) Membrane technology.

(D) Heating of the water containing the used oil to a temperature that is not more than 20 degrees Fahrenheit below the flashpoint of the used oil component of the mixture at atmospheric pressure.

(E) The addition of demulsifiers to the water containing the used oil.

(3) (A) The operation of a totally enclosed treatment unit or facility, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, when authorized by regulations adopted by the department pursuant to subparagraph (B).

(B) The department shall, on or before January 1, 1997, adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code



exempting this type of unit or facility from this article to the extent that the department determines that the exemption is consistent with the protection of public health, safety, and the environment.

(b) For purposes of paragraph (2) of subdivision (a), the separation of used oil from water does not include a method using any of the following:

(1) Contaminated groundwater.

(2) Water containing any measurable amount of gasoline or more than 2 percent of a combination of Number 1 or Number 2 diesel fuel.

(3) Used oil and water which contain other constituents which render the material hazardous under the regulations adopted pursuant to Section 25140 and 25141.

(c) A generator operating pursuant to subdivision (a) shall meet all of the following conditions:

(1) The generator complies with the conditions of subdivisions (d) and (e) of Section 25201.5.

(2) The generator submits a notification that is in compliance with paragraph (7) of subdivision (d) of Section 25201.5 on or before April 1, 1996, or if the generator is commencing the first treatment of waste pursuant to this section, not less than 60 days prior to the date of commencing treatment of that waste pursuant to this section. Upon demonstration of good cause by the generator, the department may allow a shorter time period than 60 days between notification and commencement of hazardous waste treatment pursuant to this section. The generator shall be in compliance with all other notification requirements of subdivision (d) of Section 25201.5.

(3) The generator maintains adequate records to demonstrate that the requirements and conditions of this section are met, including appropriate waste sampling and analysis records, to demonstrate that none of the water and used oil mixtures listed in subdivision (b) are treated pursuant to this section. All records required pursuant to this paragraph and subdivision (d) of Section 25201.5 shall be maintained onsite for a period of at least three years.

(4) Except as provided in Section 25404.5, the generator submits a one-time fee in the amount of one hundred dollars (\$100) to the department as part of the notification required by paragraph (2), at the same time that notification is submitted, unless the generator is subject to a fee under a permit-by-rule or a grant of conditional authorization pursuant to Section 25200.3.

(5) (A) If the generator is conducting treatment pursuant to paragraph (2) of subdivision (a), the generator complies with the Phase I environmental assessment requirements of Section 25200.14, except for subdivisions (d), (f), and (g) of Section 25200.14. The generator shall not be required to comply with this subparagraph until the department completes an evaluation of the phase I environmental assessment requirement, pursuant to Section



25200.14.1, and until any revisions resulting from that evaluation are implemented by statute or regulation.

(B) A generator conducting treatment pursuant to paragraph (2) of subdivision (a) shall not be required to conduct any site investigations, beyond that required by subparagraph (A), or to initiate remediation activities until the department adopts regulations specifying the criteria and procedures for corrective action at non-RCRA facilities.

(C) This paragraph does not limit the authority of the department, a local health officer or other local public officer authorized pursuant to Section 25187.7, or a unified program agency approved pursuant to Section 25404.1, to issue an order pursuant to Section 25187.1 or to order corrective action pursuant to Section 25187.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

