

AMENDED IN SENATE SEPTEMBER 12, 1995

AMENDED IN SENATE JULY 6, 1995

AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1849**

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**Introduced by Assembly Member Sher**

February 24, 1995

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An act to amend Sections 41701.5 and 41712 of, and to add Section 41701.6 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1849, as amended, Sher. Air pollution: emission limits.

(1) Existing law prohibits, with specified exceptions, the discharge of air contaminants into the atmosphere that exceed a specified shade or opacity.

This bill would prohibit the State Air Resources Board or any air pollution control district or air quality management district from imposing a discharge requirement on emissions of visible smoke, as specified, from any diesel engine or generator used exclusively to operate a drinking water system in specified circumstances. The bill would also make technical changes.

(2) Existing law requires the ~~State Air Resources Board~~ *state board* to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds emitted by consumer products, if the state board determines that

adequate data exists for the state board to adopt the regulations.

This bill would apply those provisions to volatile organic compounds instead of reactive organic compounds. *The bill would require that, on the date that the regulation is adopted, the technology necessary to manufacture a product exists and is available to manufacturers, and would prohibit the regulations from requiring the elimination of any existing product form.*

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 41701.5 of the Health and Safety  
2 Code is amended to read:

3 41701.5. (a) Neither the state board nor any district  
4 shall impose a discharge requirement on emissions of  
5 visible smoke from diesel pile-driving hammers which is  
6 more stringent than the requirements of this section,  
7 except as provided in subdivisions (b) and (c).

8 (b) A district shall issue a permit to the operator of a  
9 diesel pile-driving hammer if the operator submits a  
10 completed application for a permit to the district and the  
11 district determines, on the basis of information provided  
12 in the application, that the proposed use will comply with  
13 one of the following requirements:

14 (1) Meets the Ringelmann 1 limit, as published by the  
15 United States Bureau of Mines, and does not exceed that  
16 limit for more than four minutes during the driving of a  
17 single pile.

18 (2) Meets the Ringelmann 2 limit, as published by the  
19 United States Bureau of Mines, does not exceed that limit  
20 for more than four minutes during the driving of a single  
21 pile, and uses kerosene fuel, smoke suppressing fuel  
22 additives, and synthetic lubricating oil. A district may  
23 establish other requirements for compliance with this  
24 paragraph if the requirements are technologically and  
25 economically feasible. A district may consider the type of  
26 soil in which the pile-driving is to occur and the number



1 of blows required to drive a pile in determining the  
2 technological and economic feasibility of other conditions  
3 to be imposed by the district.

4 (c) A permit issued by a district shall be valid until the  
5 pile-driving work has been approved or accepted by the  
6 person or entity for which the work is being performed.  
7 Upon request of an operator or of a person or entity for  
8 which the pile-driving work is performed, a district may  
9 extend the time period for which the permit is valid if the  
10 operator continues to comply with this section.

11 SEC. 2. Section 41701.6 is added to the Health and  
12 Safety Code, to read:

13 41701.6. Neither the state board nor any district shall  
14 impose a discharge requirement on emissions of visible  
15 smoke from any diesel auxiliary engine or generator used  
16 exclusively to operate a drinking water system which is  
17 more stringent than the Ringelmann 2 limit, as published  
18 by the United States Bureau of Mines on January 1, 1995,  
19 when operated under emergency circumstances, or  
20 operated not more than 30 minutes each week, or two  
21 hours each month, under nonemergency circumstances.

22 SEC. 3. Section 41712 of the Health and Safety Code  
23 is amended to read:

24 41712. (a) *For purposes of this section, the following*  
25 *terms have the following meaning:*

26 (1) *“Consumer product” means a chemically*  
27 *formulated product used by household and institutional*  
28 *consumers, including, but not limited to, detergents;*  
29 *cleaning compounds; polishes; floor finishes; cosmetics;*  
30 *personal care products; home, lawn, and garden*  
31 *products; disinfectants; sanitizers; aerosol paints; and*  
32 *automotive specialty products; but does not include other*  
33 *paint products, furniture coatings, or architectural*  
34 *coatings.*

35 (2) *“Health benefit product” means an antimicrobial*  
36 *product registered with the Environmental Protection*  
37 *Agency.*

38 (3) *“Maximum feasible reduction in volatile organic*  
39 *compounds emitted” means at least a 60 percent*  
40 *reduction in the emissions of volatile organic compounds*



1 *resulting from the use of aerosol paints, calculated with*  
2 *respect to the 1989 baseline year.*

3 (4) *“Medical expert” means a physician, including a*  
4 *pediatrician, a microbiologist, or a scientist involved in*  
5 *research related to infectious disease and infection*  
6 *control.*

7 (5) *“Technologically and commercially feasible”*  
8 *means that on the date that the regulation is adopted, the*  
9 *technology necessary to manufacture a compliant*  
10 *consumer product exists and is available to*  
11 *manufacturers of consumer products.*

12 (b) The state board shall adopt regulations to achieve  
13 the maximum feasible reduction in volatile organic  
14 compounds emitted by consumer products, if the state  
15 board determines that adequate data exists for it to adopt  
16 the regulations.

17 ~~(b)~~

18 (c) The state board shall not adopt regulations  
19 pursuant to subdivision ~~(a)~~ (b) unless the regulations are  
20 technologically and commercially feasible, and necessary  
21 to carry out this division. The state board shall consider  
22 the effect that the regulations proposed for health benefit  
23 products will have on the efficacy of those products in  
24 killing or inactivating agents of infectious diseases such as  
25 viruses, bacteria, and fungi, and the impact the  
26 regulations will have on the availability of health benefit  
27 products to California consumers. *The regulations shall*  
28 *not require the elimination of any existing product form.*

29 ~~(e) For purposes of this section, a “consumer product”~~  
30 ~~means a chemically formulated product used by~~  
31 ~~household and institutional consumers, including, but not~~  
32 ~~limited to, detergents; cleaning compounds; polishes;~~  
33 ~~floor finishes; cosmetics; personal care products; home,~~  
34 ~~lawn, and garden products; disinfectants; sanitizers;~~  
35 ~~aerosol paints; and automotive specialty products; but~~  
36 ~~does not include other paint products, furniture coatings,~~  
37 ~~or architectural coatings.~~

38 (d) (1) Prior to adopting regulations pursuant to this  
39 section governing health benefit products, including, but  
40 not limited to, disinfectants, the state board shall consider



1 any recommendations received from federal, state, or  
2 local public health agencies and medical experts in the  
3 field of public health.

4 (2) Within 30 days after the adoption of any regulation  
5 pursuant to this section governing health benefit  
6 products, the state board shall prepare and submit to the  
7 Legislature and the Governor a report which summarizes  
8 any recommendations received pursuant to paragraph  
9 (1) and any conclusions made by the state board  
10 concerning the recommendations.

11 ~~(3) For purposes of this subdivision, the following~~  
12 ~~definitions apply:~~

13 ~~(A) "Health benefit product" means an antimicrobial~~  
14 ~~product registered with the Environmental Protection~~  
15 ~~Agency.~~

16 ~~(B) "Medical expert" means a physician, including a~~  
17 ~~pediatrician, a microbiologist, or a scientist involved in~~  
18 ~~research related to infectious disease and infection~~  
19 ~~control.~~

20 (e) A district shall adopt no regulation relating to a  
21 consumer product which is different than any regulation  
22 adopted by the state board for that purpose.

23 (f) (1) It is the intent of the Legislature that air  
24 pollution control standards affecting the formulation of  
25 aerosol paints and limiting the emissions of volatile  
26 organic compounds resulting from the use of aerosol  
27 paints be set solely by the state board to ensure uniform  
28 standards applicable on a statewide basis. A district shall  
29 not adopt or enforce any regulation regarding the volatile  
30 organic compound content of, or emissions from, aerosol  
31 paints until such time as the state board has adopted a  
32 regulation regarding those paints, and any district  
33 regulation shall not be different than the state board  
34 regulation. A district may observe and enforce a state  
35 board regulation regarding aerosol paints in the same  
36 manner as a district regulation limiting the issuance of air  
37 contaminants. This subdivision shall not apply to any  
38 district that has adopted a rule or regulation regarding  
39 aerosol paints pursuant to an order of a federal court, until  
40 such time as the federal court has authorized the district



1 to observe and enforce the state board regulation in lieu  
2 of the district regulation.

3 (2) On or before January 1, 1995, the state board shall  
4 adopt regulations requiring the maximum feasible  
5 reduction in volatile organic compounds emitted from  
6 the use of aerosol paints. The regulations shall establish  
7 final limits and require full compliance not later than  
8 December 31, 1999, and shall establish interim limits prior  
9 to that date resulting in reductions in reactive organic  
10 compounds. ~~For the purposes of this subdivision,~~  
11 ~~“maximum feasible reduction in volatile organic~~  
12 ~~compounds emitted” means at least a 60 percent~~  
13 ~~reduction in the emissions of reactive organic compounds~~  
14 ~~resulting from the use of aerosol paints, calculated with~~  
15 ~~respect to the 1989 baseline year. compounds.~~

16 (3) On or before December 31, 1998, the state board  
17 shall conduct a public hearing on the technological or  
18 commercial feasibility of achieving full compliance with  
19 the final limits by December 31, 1999. If the state board  
20 determines that a 60 percent reduction in emissions of  
21 reactive organic compounds from the use of aerosol  
22 paints is not technologically or commercially feasible by  
23 December 31, 1999, it may grant an extension of time not  
24 to exceed five years. During any such extension of time,  
25 the most stringent interim limits shall be applicable. Any  
26 regulation adopted by the state board shall include a  
27 provision authorizing the time extension and requiring a  
28 public hearing on technological or commercial feasibility  
29 consistent with this subdivision. The state board shall seek  
30 to ensure that the final limits for aerosol paints established  
31 pursuant to this subdivision do not become federally  
32 enforceable prior to the effective date established by the  
33 state board for these limits, including any extension  
34 granted under this subdivision.

35 (4) Reductions required for aerosol paints under this  
36 subdivision are not intended to apply to any other  
37 consumer product and the regulation of aerosol paints is  
38 not subject to subdivision ~~(b)~~ (c).

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