

AMENDED IN ASSEMBLY APRIL 22, 1997

AMENDED IN ASSEMBLY APRIL 9, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 541**

**Introduced by Assembly Member Ducheny**

February 25, 1997

An act to amend Section 13271 of, and to add Sections 13529, 13529.2, and 13529.4 to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 541, as amended, Ducheny. Recycled water.

(1) Existing law, with a certain exception, requires any person who permits any sewage to be discharged in state waters to make a prescribed notification to the Office of Emergency Services and defines the term "sewage" for purposes of that provision.

This bill would exclude from that definition recycled water, as defined.

(2) Existing law regulates the use of recycled water.

This bill would require any person who causes an unauthorized discharge, as defined, of 50,000 gallons or more of recycled water, as defined, in any waters of the state to notify the appropriate California regional water quality board not later than 24 hours after that person acquires knowledge of the discharge. The bill would subject a person who fails to make the required notification, *or a person who fails to provide notification of unauthorized discharges of recycled*



water in accordance with applicable waste discharge requirements, to ~~an~~ administrative civil liability, as prescribed. ~~The bill would provide that this administrative civil liability is the sole remedy for that failure.~~ The bill would make related legislative findings and declarations.

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 13271 of the Water Code is  
2 amended to read:

3 13271. (a) Except as provided by subdivision (b), any  
4 person who, without regard to intent or negligence,  
5 causes or permits any hazardous substance or sewage to  
6 be discharged in or on any waters of the state, or  
7 discharged or deposited where it is, or probably will be,  
8 discharged in or on any waters of the state, shall, as soon  
9 as (1) that person has knowledge of the discharge, (2)  
10 notification is possible, and (3) notification can be  
11 provided without substantially impeding cleanup or  
12 other emergency measures, immediately notify the  
13 Office of Emergency Services of the discharge in  
14 accordance with the spill reporting provision of the state  
15 toxic disaster contingency plan adopted pursuant to  
16 Article 3.7 (commencing with Section 8574.7) of Chapter  
17 7 of Division 1 of Title 2 of the Government Code. The  
18 Office of Emergency Services shall immediately notify  
19 the appropriate regional board of the discharge. The  
20 regional board shall notify the state board as appropriate.  
21 The state board or the regional board shall list all  
22 notifications received by them pursuant to this section in  
23 the minutes of the next business meeting and shall  
24 provide a copy of the minutes to the appropriate local  
25 health officials.

26 (b) The notification required by this section shall not  
27 apply to a discharge in compliance with waste discharge  
28 requirements or other provisions of this division.

29 (c) Any person who fails to provide the notice  
30 required by this section is guilty of a misdemeanor and



1 shall be punished by a fine of not more than twenty  
2 thousand dollars (\$20,000) or imprisonment for not more  
3 than one year, or both. Except where a discharge to the  
4 waters of this state would have occurred but for cleanup  
5 or emergency response by a public agency, this  
6 subdivision shall not apply to any discharge to land which  
7 does not result in a discharge to the waters of this state.

8 (d) Notification received pursuant to this section or  
9 information obtained by use of that notification shall not  
10 be used against any person providing the notification in  
11 any criminal case, except in a prosecution for perjury or  
12 giving a false statement.

13 (e) For substances listed as hazardous wastes or  
14 hazardous material pursuant to Section 25140 of the  
15 Health and Safety Code, the state board, in consultation  
16 with the Department of Toxic Substances Control, shall  
17 by regulation establish reportable quantities for purposes  
18 of this section. The regulations shall be based on what  
19 quantities should be reported because they may pose a  
20 risk to public health or the environment if discharged to  
21 ground or surface water. Regulations need not set  
22 reportable quantities on all listed substances at the same  
23 time. Regulations establishing reportable quantities shall  
24 not supersede waste discharge requirements or water  
25 quality objectives adopted pursuant to this division, and  
26 shall not supersede or affect in any way the list, criteria,  
27 and guidelines for the identification of hazardous wastes  
28 and extremely hazardous wastes adopted by the  
29 Department of Toxic Substances Control pursuant to  
30 Chapter 6.5 (commencing with Section 25100) of  
31 Division 20 of the Health and Safety Code. The  
32 regulations of the Environmental Protection Agency for  
33 reportable quantities of hazardous substances for  
34 purposes of the Comprehensive Environmental  
35 Response, Compensation, and Liability Act of 1980, as  
36 amended (42 U.S.C. Sec. 9601 and following) shall be in  
37 effect for purposes of the enforcement of this section until  
38 the time that the regulations required by this subdivision  
39 are adopted.



1 (f) The state board shall adopt regulations establishing  
2 reportable quantities of sewage for purposes of this  
3 section. The regulations shall be based on the quantities  
4 that should be reported because they may pose a risk to  
5 public health or the environment if discharged to ground  
6 or surface water. Regulations establishing reportable  
7 quantities shall not supersede waste discharge  
8 requirements or water quality objectives adopted  
9 pursuant to this division. For purposes of this section,  
10 “sewage” means the effluent of a municipal wastewater  
11 treatment plant or a private utility wastewater treatment  
12 plant, as those terms are defined in Section 13625, except  
13 that sewage does not include recycled water, *as defined*  
14 *in subdivision (c) of Section 13529.2.*

15 (g) Except as otherwise provided in this section and  
16 Section 8589.7 of the Government Code, a notification  
17 made pursuant to this section shall satisfy any immediate  
18 notification requirement contained in any permit issued  
19 by a permitting agency. When notifying the Office of  
20 Emergency Services, the person shall include all of the  
21 notification information required in the permit.

22 SEC. 2. Section 13529 is added to the Water Code, to  
23 read:

24 13529. The Legislature hereby finds and declares all  
25 of the following:

26 (a) The purpose of Section 13529.2 is to establish  
27 notification requirements for unauthorized discharges of  
28 recycled water to waters of the state.

29 (b) It is the intent of the Legislature in enacting this  
30 section to promote the efficient and safe use of recycled  
31 water.

32 (c) The people of the state have a primary interest in  
33 the development of facilities to recycle water to  
34 supplement existing water supplies and to minimize the  
35 impacts of growing demand for new water on sensitive  
36 natural water bodies.

37 (d) A substantial portion of the future water  
38 requirements of the state may be economically met by  
39 the beneficial use of recycled water.



1 (e) The Legislature has established a statewide goal to  
2 recycle 700,000 acre-feet of water per year by the year  
3 2000 and 1,000,000 acre-feet of water per year by the year  
4 2010.

5 (f) The use of recycled water has proven to be safe and  
6 the State Department of Health Services is drafting  
7 regulations to provide for expanded uses of recycled  
8 water.

9 SEC. 3. Section 13529.2 is added to the Water Code, to  
10 read:

11 13529.2. (a) Any person who causes an unauthorized  
12 discharge of 50,000 gallons or more of recycled water in  
13 or on any waters of the state shall notify the appropriate  
14 regional board not later than 24 hours after that person  
15 acquires knowledge of the discharge.

16 (b) For the purposes of this section, an unauthorized  
17 discharge means a discharge not authorized by waste  
18 discharge requirements, water reclamation  
19 requirements, a master reclamation permit, or any other  
20 provision of this division.

21 (c) For the purposes of this section, "recycled water"  
22 means wastewater treated as "disinfected secondary 2.2  
23 recycled water," "disinfected secondary ~~2.3~~ 23 recycled  
24 water," or "disinfected tertiary recycled water," as  
25 defined *or described* by the State Department of Health  
26 Services ~~pursuant to Section 13521. in regulations~~  
27 *adopted pursuant to Section 13521, or wastewater*  
28 *receiving advanced treatment beyond disinfected*  
29 *tertiary recycled water.*

30 SEC. 4. Section 13529.4 is added to the Water Code, to  
31 read:

32 13529.4. (a) Any person refusing or failing to provide  
33 the notice required by Section 13529.2, *or refusing or*  
34 *failing to provide notification of unauthorized discharges*  
35 *of recycled water, as those terms are defined in Section*  
36 *13529.2, in accordance with applicable waste discharge*  
37 *requirements, may be subject to administrative civil*  
38 *liability in an amount not to exceed the following:*

39 ~~(1) For the first violation within a 365-day period, two~~  
40 ~~thousand five hundred dollars (\$2,500).~~



1 ~~(2) For the second violation within a 365-day period,~~  
2 ~~five thousand dollars (\$5,000).~~

3 ~~(3) For the third violation within a 365-day period, ten~~  
4 ~~thousand dollars (\$10,000).~~

5 ~~(4) For any subsequent violation within a 365-day~~  
6 ~~period, twenty-five thousand dollars (\$25,000).~~

7 ~~(b) Notwithstanding any other provision of law, this~~  
8 ~~section is the sole remedy for a refusal or failure to~~  
9 ~~provide the notice required by Section 13529.2.~~

10 *(1) For the first violation, or a subsequent violation*  
11 *occurring more than 365 days from a previous violation,*  
12 *five thousand dollars (\$5,000).*

13 *(2) For a second violation occurring within 365 days of*  
14 *a previous violation, ten thousand dollars (\$10,000).*

15 *(3) For a third or subsequent violation occurring*  
16 *within 365 days of a previous violation, twenty-five*  
17 *thousand dollars (\$25,000).*

