

ASSEMBLY BILL

No. 2877

Introduced by Assembly Member Aghazarian

February 20, 2004

An act to amend Section 25150.6 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2877, as introduced, Aghazarian. Hazardous waste: regulation.

(1) Existing law establishes various standards for management and control of hazardous waste. Existing law authorizes the Department of Toxic Substances Control to exempt, by regulation, a hazardous waste management activity from certain statutory requirements related to hazardous waste management if specific conditions for exemption are met. Existing law authorizes the department to adopt those regulations for exemptions only until January 1, 2003.

This bill would extend that authorization until January 1, 2008.

Because a violation of the regulations authorized by this bill would be a crime, the bill would impose a state-mandated local program.

(2) 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 25150.6 of the Health and Safety Code
2 is amended to read:

3 25150.6. (a) Except as provided in subdivisions (e) and (f),
4 the department, by regulation, may exempt a hazardous waste
5 management activity from one or more of the requirements of this
6 chapter, if the department does all of the following:

7 (1) Prepares an analysis of the hazardous waste management
8 activity to which the exemption will apply pursuant to subdivision

9 (b). The department shall first prepare the analysis as a preliminary
10 analysis and make it available to the public at the same time that
11 the department gives notice, pursuant to Section 11346.4 of the
12 Government Code, that it proposes to adopt a regulation
13 exempting the hazardous waste management activity from one or
14 more of the requirements of this chapter. The department shall
15 include, in the notice, a reference that the department has prepared
16 a preliminary analysis and a statement concerning where a copy of
17 the preliminary analysis can be obtained. The information in the
18 preliminary analysis shall be updated and the department shall
19 make the analysis available to the public as a final analysis not less
20 than 10 working days prior to the date that the regulation is
21 adopted.

22 (2) Demonstrates that one of the conclusions required by
23 subdivision (c) is valid.

24 (3) Imposes, as may be necessary, conditions and limitations on
25 the exemption that ensure that the exempted activity will not pose
26 a significant potential hazard to human health or safety or to the
27 environment.

28 (b) Before the department gives notice of a proposal to adopt
29 a regulation exempting a hazardous waste activity from one or
30 more of the requirements of this chapter pursuant to subdivision
31 (a), and before the department adopts the regulation, the
32 department shall evaluate the hazardous waste management
33 activity and prepare, as required by paragraph (1) of subdivision
34 (a), an analysis that addresses all of the following aspects of the
35 activity, to the extent that the requirement or requirements from
36 which the activity will be exempted can affect these aspects of the
37 activity:



1 (1) The types of hazardous waste streams and the estimated
2 amounts of hazardous waste that are managed as part of the activity
3 and the hazards to human health or safety or to the environment
4 posed by reasonably foreseeable mismanagement of those
5 hazardous wastes and their hazardous constituents. The estimate
6 of the amounts of hazardous waste that are managed as part of the
7 activity shall be based upon information reasonably available to
8 the department.

9 (2) The complexity of the activity, and the amount and
10 complexity of operator training, equipment installation and
11 maintenance, and monitoring that are required to ensure that the
12 activity is conducted in a manner that safely and effectively
13 manages the particular hazardous waste stream.

14 (3) The chemical or physical hazards that are associated with
15 the activity and the degree to which those hazards are similar to,
16 or differ from, the chemical or physical hazards that are associated
17 with the production processes that are carried out in the facilities
18 that produce the hazardous waste that is managed as part of the
19 activity.

20 (4) The types of accidents that might reasonably be foreseen to
21 occur during the management of particular types of hazardous
22 waste streams as part of the activity, the likely consequences of
23 those accidents, and the actual reasonably available accident
24 history associated with the activity.

25 (5) The types of locations at which the activity may be carried
26 out, an estimate of the number of these locations, and the types of
27 hazards that may be posed by proximity to the land uses described
28 in subdivision (b) of Section 25232. The estimate of the number
29 of locations at which the activity may be carried out shall be based
30 upon information reasonably available to the department.

31 (c) The department ~~shall~~ *may* not give notice proposing the
32 adoption of, and the department may not adopt, a regulation
33 pursuant to subdivision (a) unless it first demonstrates, using the
34 information developed in the analysis prepared pursuant to
35 subdivision (b), that one of the following is valid:

36 (1) The requirement from which the activity is exempted is not
37 significant or important in either of the following:

38 (A) Preventing or mitigating potential hazards to human health
39 or safety or to the environment posed by the activity.



1 (B) Ensuring that the activity is conducted in compliance with
2 other applicable requirements of this chapter and the regulations
3 adopted pursuant to this chapter.

4 (2) A requirement is imposed and enforced by another public
5 agency that provides protection of human health and safety and the
6 environment that is as effective as, and equivalent to, the
7 protection provided by the requirement, or requirements, from
8 which the activity is being exempted.

9 (3) Conditions or limitations imposed on the exemption will
10 provide protection of human health and safety and the
11 environment equivalent to the requirement, or requirements, from
12 which the activity is exempted.

13 (4) Conditions or limitations imposed on the exemption
14 accomplish the same regulatory purpose as the requirement, or
15 requirements, from which the activity is being exempted but at less
16 cost or greater administrative convenience and without increasing
17 potential risks to human health or safety or to the environment.

18 (d) A regulation adopted pursuant to this section ~~shall~~ *may* not
19 be deemed to meet the standard of necessity, pursuant to Section
20 11349.1 of the Government Code, unless the department has
21 complied with subdivisions (b) and (c).

22 (e) The department ~~shall~~ *may* not exempt a hazardous waste
23 management activity from a requirement of this chapter or the
24 regulations adopted by the department if the requirement is also a
25 requirement for that activity under the federal act.

26 (f) (1) On and after January 1, 2002, the department may, by
27 regulation, exempt a hazardous waste management activity from
28 one or more of the requirements of this chapter pursuant to this
29 section only if the regulations govern the management of one of
30 the hazardous wastes listed in subparagraphs (A) to (E), inclusive,
31 of paragraph (2), the regulations identify the hazardous waste as
32 a universal waste, and the regulations amend the standards for
33 universal waste management set forth in Chapter 23 (commencing
34 with Section 66273.1) of Division 4.5 of Title 22 of the California
35 Code of Regulations.

36 (2) The regulations that the department may adopt pursuant to
37 paragraph (1) shall govern only the following types of hazardous
38 waste:

39 (A) Electronic hazardous wastes, as the department may
40 describe in the regulations adopted pursuant to this subdivision.



- 1 (B) Hazardous waste batteries.
- 2 (C) Hazardous wastes containing mercury.
- 3 (D) Hazardous waste lamps.
- 4 (E) Lead-painted wood debris that is a hazardous waste.
- 5 (g) The authority of the department to adopt regulations
- 6 pursuant to this section shall remain in effect only until January 1,
- 7 ~~2003~~ 2008, unless a later enacted statute, which is enacted before
- 8 January 1, ~~2003~~ 2008, deletes or extends that date. This
- 9 subdivision does not invalidate any regulation adopted pursuant to
- 10 this section prior to the expiration of the department's authority.
- 11 SEC. 2. No reimbursement is required by this act pursuant to
- 12 Section 6 of Article XIII B of the California Constitution because
- 13 the only costs that may be incurred by a local agency or school
- 14 district will be incurred because this act creates a new crime or
- 15 infraction, eliminates a crime or infraction, or changes the penalty
- 16 for a crime or infraction, within the meaning of Section 17556 of
- 17 the Government Code, or changes the definition of a crime within
- 18 the meaning of Section 6 of Article XIII B of the California
- 19 Constitution.

