

AMENDED IN SENATE JUNE 21, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

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 amended, 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~~ *regulations that may be adopted until January 1, 2003*, a hazardous waste management activity from certain statutory requirements related to hazardous waste management if specific conditions for exemption are met. ~~Existing~~ *Lead-painted wood debris is one of the types of hazardous waste that may be exempted by the regulations from those statutory requirements.*

This bill would recast that exemption to, instead apply to lead-based painted debris.

~~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, the authorization for the department to adopt regulations for exemptions.

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 *management* activity
30 from one or more of the requirements of this chapter pursuant to
31 subdivision (a), and before the department adopts the regulation,



1 the department shall evaluate the hazardous waste management
2 activity and prepare, as required by paragraph (1) of subdivision
3 (a), an analysis that addresses all of the following aspects of the
4 activity, to the extent that the requirement or requirements from
5 which the activity will be exempted can affect these aspects of the
6 activity:

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

15 (2) The complexity of the activity, and the amount and
16 complexity of operator training, equipment installation and
17 maintenance, and monitoring that are required to ensure that the
18 activity is conducted in a manner that safely and effectively
19 manages the particular hazardous waste stream.

20 (3) The chemical or physical hazards that are associated with
21 the activity and the degree to which those hazards are similar to,
22 or differ from, the chemical or physical hazards that are associated
23 with the production processes that are carried out in the facilities
24 that produce the hazardous waste that is managed as part of the
25 activity.

26 (4) The types of accidents that might reasonably be foreseen to
27 occur during the management of particular types of hazardous
28 waste streams as part of the activity, the likely consequences of
29 those accidents, and the actual reasonably available accident
30 history associated with the activity.

31 (5) The types of locations at which the activity may be carried
32 out, an estimate of the number of these locations, and the types of
33 hazards that may be posed by proximity to the land uses described
34 in subdivision (b) of Section 25232. The estimate of the number
35 of locations at which the activity may be carried out shall be based
36 upon information reasonably available to the department.

37 (c) The department ~~may~~ *shall* not give notice proposing the
38 adoption of, and the department may not adopt, a regulation
39 pursuant to subdivision (a) unless it first demonstrates, using the



1 information developed in the analysis prepared pursuant to
2 subdivision (b), that one of the following is valid:

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

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

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

10 (2) A requirement is imposed and enforced by another public
11 agency that provides protection of human health and safety and the
12 environment that is as effective as, and equivalent to, the
13 protection provided by the requirement, or requirements, from
14 which the activity is being exempted.

15 (3) Conditions or limitations imposed on the exemption will
16 provide protection of human health and safety and the
17 environment equivalent to the requirement, or requirements, from
18 which the activity is exempted.

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

24 (d) A regulation adopted pursuant to this section ~~may~~ *shall* not
25 be deemed to meet the standard of necessity, pursuant to Section
26 11349.1 of the Government Code, unless the department has
27 complied with subdivisions (b) and (c).

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

32 (f) (1) On and after January 1, 2002, the department may, by
33 regulation, exempt a hazardous waste management activity from
34 one or more of the requirements of this chapter pursuant to this
35 section only if the regulations govern the management of one of
36 the hazardous wastes listed in subparagraphs (A) to (E), inclusive,
37 of paragraph (2), the regulations identify the hazardous waste as
38 a universal waste, and the regulations amend the standards for
39 universal waste management set forth in Chapter 23 (commencing



1 with Section 66273.1) of Division 4.5 of Title 22 of the California
2 Code of Regulations.

3 (2) The regulations that the department may adopt pursuant to
4 paragraph (1) shall govern only the following types of hazardous
5 waste:

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

8 (B) Hazardous waste batteries.

9 (C) Hazardous wastes containing mercury.

10 (D) Hazardous waste lamps.

11 (E) ~~Lead-painted wood~~ *Lead-based painted* debris that is a
12 hazardous waste.

13 (g) The authority of the department to adopt regulations
14 pursuant to this section shall remain in effect only until January 1,
15 2008, unless a later enacted statute, which is enacted before
16 January 1, 2008, deletes or extends that date. This subdivision does
17 not invalidate any regulation adopted pursuant to this section prior
18 to the expiration of the department's authority.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

