

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE APRIL 27, 2004

AMENDED IN SENATE MARCH 23, 2004

SENATE BILL

No. 1722

Introduced by Senator Ducheny

February 20, 2004

An act to add Section ~~25249.37~~ 25249.7.3 to the Health and Safety Code, relating to toxic substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1722, as amended, Ducheny. Proposition 65: enforcement: judgments.

(1) The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified. The act imposes civil penalties upon persons who violate those prohibitions, and provides for the enforcement of those prohibitions by the Attorney General, a district attorney, or specified city attorneys or prosecutors, and by any person in the public interest. Existing law requires 75% of all civil and criminal penalties collected pursuant to the act to be deposited in the Safe Drinking Water and Toxic Enforcement Fund in the State Treasury, which may be expended by the director of the lead agency, who is designated by the Governor to implement the act, to implement and administer the act, upon appropriation by the Legislature. Existing law requires 25% of all civil and criminal

penalties collected pursuant to the act be paid to the prosecuting office or the person who brought the action in the public interest. The act requires any person bringing an action in the public interest, or any private person filing an action in which a violation of the act is alleged, to notify the Attorney General that such an action has been filed.

This bill would provide that where a court finds that the doctrine of res judicata bars the relitigation of an issue or a cause of action, ~~a later~~ *as specified, another action brought in the public interest* would be barred.

(2) The bill, in conformance with the requirements of Proposition 65, would make a legislative finding and declaration that this change would further the purposes of the act.

Vote: ²/₃. 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 25249.7.3 is added to the Health and
- 2 Safety Code, to read:
- 3 25249.7.3. A court judgment in a case filed pursuant to
- 4 subdivision (c) or (d) of Section 25249.7, *a settlement in a case*
- 5 *filed pursuant to subdivision (c) of Section 25249.7*, or a settlement
- 6 approved by the court pursuant to paragraph (4) of subdivision (f)
- 7 of Section 25249.7, shall bar ~~a later~~ *another* action, or a part
- 8 thereof, brought in the public interest pursuant to subdivision (d)
- 9 of Section 25249.7 where the court, ~~in the later action,~~ finds that
- 10 the doctrine of res judicata bars relitigation of an issue or cause of
- 11 action.
- 12 SEC. 2. The Legislature finds and declares that this act
- 13 furthers the purposes of the Safe Drinking Water and Toxic
- 14 Enforcement Act of 1986.

