

AMENDED IN SENATE MAY 29, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1098

Introduced by Assembly Member Saldana

February 23, 2007

An act to amend Sections 25514.5 and 25540 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1098, as amended, Saldana. Hazardous materials: administrative: penalties: liability.

(1) Existing law requires that, in order to protect the public health and safety and the environment, a business, as defined, establish and implement a business plan, meeting specified requirements, relating to the handling and release or threatened release of hazardous materials. A business that violates or knowingly violates any provision with regard to the business plan is liable to an administering agency for a prescribed administrative penalty.

This bill would remove the requirement that the amount of the administrative penalty be set by the governing board of the administrative agency.

(2) Existing law requires the implementation of the federal accident release prevention program, established pursuant to the federal Clean Air Act, with regard to the handling and storage of chemical and hazardous substances, along with certain amendments specific to the state. If there is a violation of the provisions of the program, specified administrative civil liability shall be imposed. If there is a knowing

violation of the provisions of the program, after reasonable notice, specified administrative civil liability shall be imposed, and upon conviction the person may be punished by imprisonment in the county jail for not more than one year. An administering agency is required to utilize specified enforcement procedures when an administering agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of those requirements.

This bill would make clarifying changes with regard to the administering agency’s enforcement of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25514.5 of the Health and Safety Code
2 is amended to read:

3 25514.5. (a) Notwithstanding Section 25514, any business
4 that violates this article is liable to an administering agency for an
5 administrative penalty not greater than two thousand dollars
6 (\$2,000) for each day in which the violation occurs. If the violation
7 results in, or significantly contributes to, an emergency, including
8 a fire or health or medical problem requiring toxicological, health,
9 or medical consultation, the business shall also be assessed the full
10 cost of the county, city, fire district, local EMS agency designated
11 pursuant to Section 1797.200, or poison control center as defined
12 by Section 1797.97, emergency response, as well as the cost of
13 cleaning up and disposing of the hazardous materials, or acutely
14 hazardous materials.

15 (b) Notwithstanding Section 25514, any business that knowingly
16 violates this article after reasonable notice of the violation is liable
17 for an administrative penalty, not greater than five thousand dollars
18 (\$5,000) for each day in which the violation occurs.

19 (c) When an administering agency issues an enforcement order
20 or assesses an administrative penalty, or both, for a violation of
21 this article, the administering agency shall utilize the administrative
22 enforcement procedures, including the hearing procedures,
23 specified in Sections 25404.1.1 and 25404.1.2.

24 SEC. 2. Section 25540 of the Health and Safety Code is
25 amended to read:

1 25540. (a) (1) Any person or stationary source that violates
2 this article shall be liable for administrative penalties in an amount
3 of not more than two thousand dollars (\$2,000) for each day in
4 which the violation occurs. If the violation results in, or
5 significantly contributes to, an emergency, including a fire, the
6 person or stationary source shall also be assessed the full cost of
7 the county or city emergency response, as well as the cost of
8 cleaning up and disposing of the hazardous materials.

9 (2) Any person or stationary source that knowingly violates this
10 article after reasonable notice of the violation shall be liable for
11 administrative penalties in an amount not to exceed twenty-five
12 thousand dollars (\$25,000) for each day in which the violation
13 occurs. If the violation results in, or significantly contributes to,
14 an emergency, including a fire, the person or stationary source
15 shall also be assessed the full cost of the county or city emergency
16 response, as well as the cost of cleaning up and disposing of any
17 hazardous materials.

18 (3) When an administering agency issues an enforcement order
19 or assesses an administrative penalty, or both, for a violation of
20 this article, the administering agency shall utilize the administrative
21 enforcement procedures, including the hearing procedures,
22 specified in Sections 25404.1.1 and 25404.1.2.

23 (b) Any person or stationary source that knowingly violates this
24 article after reasonable notice of the violation ~~shall~~ *may* upon
25 conviction be punished by imprisonment in the county jail not to
26 exceed one year. If the violation results in, or significantly
27 contributes to an emergency, including a fire, the person or
28 stationary source shall also be assessed the full cost of the county
29 or city emergency response, as well as the cost of cleaning up and
30 disposing of any hazardous materials.