

**ASSEMBLY BILL**

**No. 256**

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**Introduced by Assembly Member Bill Berryhill**

February 11, 2009

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An act to amend Section 25503.5 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 256, as introduced, Bill Berryhill. Hazardous materials: farms: business plans and inventories.

Existing law generally requires a business that handles a hazardous material to establish and implement a business plan for emergency response to a release or threatened release of a hazardous material, with specified exceptions. Existing law specifies the contents of the business plan, including an inventory, and requires it to be submitted to the administering agency, as defined.

This bill would exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting an agricultural or horticultural commodity from establishing and implementing one of those business plans if the only hazardous materials that the farm has onsite are small amounts of oils or fertilizers, or small amounts of other hazardous materials that are onsite for less than 10 days at a time.

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 25503.5 of the Health and Safety Code
- 2 is amended to read:

1 25503.5. (a) (1) A business, except as provided in subdivisions  
2 (b), (c), and (d), shall establish and implement a business plan for  
3 emergency response to a release or threatened release of a  
4 hazardous material in accordance with the standards prescribed in  
5 the regulations adopted pursuant to Section 25503, if the business  
6 handles a hazardous material or a mixture containing a hazardous  
7 material that has a quantity at any one time during the reporting  
8 year that is any of the following:

9 (A) Equal to, or greater than, a total weight of 500 pounds or a  
10 total volume of 55 gallons.

11 (B) Equal to, or greater than, 200 cubic feet at standard  
12 temperature and pressure, if the substance is compressed gas.

13 (C) If the substance is a radioactive material, it is handled in  
14 quantities for which an emergency plan is required to be adopted  
15 pursuant to Part 30 (commencing with Section 30.1), Part 40  
16 (commencing with Section 40.1), or Part 70 (commencing with  
17 Section 70.1), of Chapter 1 of Title 10 of the Code of Federal  
18 Regulations, or pursuant to any regulations adopted by the state  
19 in accordance with those regulations.

20 (2) In meeting the requirements of this subdivision, a business  
21 may, if it elects to do so, use the format adopted pursuant to Section  
22 25503.4.

23 (b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily  
24 maintained by a physician, dentist, podiatrist, veterinarian, or  
25 pharmacist, at his or her office or place of business, stored at each  
26 office or place of business in quantities of not more than 1,000  
27 cubic feet of each material at any one time, are exempt from this  
28 section and from Section 25505. The administering agency may  
29 require a one-time inventory of these materials for a fee not to  
30 exceed fifty dollars (\$50) to pay for the costs incurred by the  
31 agency in processing the inventory forms.

32 (2) (A) Lubricating oil is exempt from this section and Sections  
33 25505 and 25509, for a single business facility, if the total volume  
34 of each type of lubricating oil handled at that facility does not  
35 exceed 55 gallons and the total volume of all types of lubricating  
36 oil handled at that facility does not exceed 275 gallons, at any one  
37 time.

38 (B) For purposes of this paragraph, "lubricating oil" means any  
39 oil intended for use in an internal combustion crankcase, or the  
40 transmission, gearbox, differential, or hydraulic system of an

1 automobile, bus, truck, vessel, plane, heavy equipment, or other  
2 machinery powered by an internal combustion or electric powered  
3 engine. “Lubricating oil” does not include used oil, as defined in  
4 subdivision (a) of Section 25250.1.

5 *(3) A business operating a farm for purposes of cultivating the*  
6 *soil or raising or harvesting an agricultural or horticultural*  
7 *commodity is exempt from this section and Sections 25505 and*  
8 *25509 if the only hazardous materials that the farm has onsite are*  
9 *small amounts of any of the following:*

10 *(A) Oils.*

11 *(B) Fertilizers.*

12 *(C) Hazardous materials, other than those listed in*  
13 *subparagraphs (A) and (B), that are onsite for less than 10 days*  
14 *at a time.*

15 (c) (1) Hazardous material contained solely in a consumer  
16 product for direct distribution to, and use by, the general public is  
17 exempt from the business plan requirements of this chapter unless  
18 the administering agency has found, and has provided notice to  
19 the business handling the product, that the handling of certain  
20 quantities of the product requires the submission of a business  
21 plan, or any portion thereof, in response to public health, safety,  
22 or environmental concerns.

23 (2) In addition to the authority specified in paragraph (4), the  
24 administering agency may, in exceptional circumstances, following  
25 notice and public hearing, exempt from the inventory provisions  
26 of this chapter ~~any~~ a hazardous substance specified in subdivision  
27 (p) of Section 25501 if the administering agency finds that the  
28 hazardous substance would not pose a present or potential danger  
29 to the environment or to human health and safety if the hazardous  
30 substance was released into the environment. The administering  
31 agency shall specify in writing the basis for granting ~~any~~ an  
32 exemption under this paragraph. The administering agency shall  
33 send a notice to the office within five days from the effective date  
34 of ~~any~~ an exemption granted pursuant to this paragraph.

35 (3) The administering agency, upon application by a handler,  
36 may exempt the handler, under conditions that the administering  
37 agency determines to be proper, from ~~any~~ a portion of the business  
38 plan, upon a written finding that the exemption would not pose a  
39 significant present or potential hazard to human health or safety  
40 or to the environment or affect the ability of the administering

1 agency and emergency rescue personnel to effectively respond to  
2 the release of a hazardous material, and that there are unusual  
3 circumstances justifying the exemption. The administering agency  
4 shall specify in writing the basis for ~~any~~ *an* exemption under this  
5 paragraph.

6 (4) The administering agency, upon application by a handler,  
7 may exempt a hazardous material from the inventory provisions  
8 of this chapter upon proof that the material does not pose a  
9 significant present or potential hazard to human health and safety  
10 or to the environment if released into the workplace or  
11 environment. The administering agency shall specify in writing  
12 the basis for ~~any~~ *an* exemption under this paragraph.

13 (5) An administering agency shall exempt a business operating  
14 a farm for purposes of cultivating the soil or raising or harvesting  
15 ~~any~~ *an* agricultural or horticultural commodity from filing the  
16 information in the business plan required by subdivisions (b) and  
17 (c) of Section 25504 if all of the following requirements are met:

18 (A) The handler annually provides the inventory of information  
19 required by Section 25509 to the county agricultural commissioner  
20 before January 1 of each year.

21 (B) Each building in which hazardous materials subject to this  
22 chapter are stored is posted with signs, in accordance with  
23 regulations that the office shall adopt, that provide notice of the  
24 storage of any of the following:

25 (i) Pesticides.

26 (ii) Petroleum fuels and oil.

27 (iii) Types of fertilizers.

28 (C) Each county agricultural commissioner forwards the  
29 inventory to the administering agency within 30 days from the  
30 date of receipt of the inventory.

31 (6) The administering agency shall exempt a business operating  
32 an unstaffed remote facility located in an isolated sparsely  
33 populated area from the hazardous materials business plan and  
34 inventory requirements of this article if the facility is not otherwise  
35 subject to the requirements of applicable federal law, and all of  
36 the following requirements are met:

37 (A) The types and quantities of materials onsite are limited to  
38 one or more of the following:

39 (i) Five hundred standard cubic feet of compressed inert gases  
40 (asphyxiation and pressure hazards only).

1 (ii) Five hundred gallons of combustible liquid used as a fuel  
2 source.

3 (iii) Two hundred gallons of corrosive liquids used as  
4 electrolytes in closed containers.

5 (iv) Five hundred gallons of lubricating and hydraulic fluids.

6 (v) Twelve hundred gallons of flammable gas used as a fuel  
7 source.

8 (B) The facility is secured and not accessible to the public.

9 (C) Warning signs are posted and maintained for hazardous  
10 materials pursuant to the California Fire Code.

11 (D) A one-time notification and inventory is provided to the  
12 administering agency along with a processing fee in lieu of the  
13 existing fee. The fee shall not exceed the actual cost of processing  
14 the notification and inventory, including a verification inspection  
15 if necessary.

16 (E) If the information contained in the initial notification or  
17 inventory changes and the time period of the change is longer than  
18 30 days, the notification or inventory shall be resubmitted within  
19 30 days to the administering agency to reflect the change, along  
20 with a processing fee, in lieu of the existing fee, that does not  
21 exceed the actual cost of processing the amended notification or  
22 inventory, including a verification inspection, if necessary.

23 (F) The administering agency shall forward a copy of the  
24 notification and inventory to those agencies that share responsibility  
25 for emergency response.

26 (G) The administering agency may require an unstaffed remote  
27 facility to submit a hazardous materials business plan and inventory  
28 in accordance with this article if the agency finds that special  
29 circumstances exist such that development and maintenance of the  
30 business plan and inventory is necessary to protect public health  
31 and safety and the environment.

32 (d) Onpremise use, storage, or both, of propane in an amount  
33 not to exceed 300 gallons that is for the sole purpose of heating  
34 the employee working areas ~~with~~ *within* that business is exempt  
35 from this section, unless the administering agency finds, and  
36 provides notice to the business handling the propane, that the  
37 handling of the onpremise propane requires the submission of a  
38 business plan, or ~~any~~ a portion thereof, in response to public health,  
39 safety, or environmental concerns.

- 1 (e) The administering agency shall provide all information
- 2 obtained from completed inventory forms, upon request, to
- 3 emergency rescue personnel on a 24-hour basis.
- 4 (f) The administering agency shall adopt procedures to provide
- 5 for public input when approving ~~any applications~~ *an application*
- 6 submitted pursuant to paragraph (3) or (4) of subdivision (c).