

AMENDED IN ASSEMBLY MARCH 18, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1728**

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**Introduced by Assembly Member Gilmore**

February 3, 2010

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An act to amend ~~Sections~~ Section 13385.1 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1728, as amended, Gilmore. Mandatory minimum civil penalties: ~~serious waste discharge violations.~~ *automatic composite sampler.*

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act). The state act, with certain exceptions, imposes a mandatory minimum penalty of \$3,000 for each serious waste discharge violation or for certain other described violations if those violations occur 4 or more times in any period of 6 consecutive months. ~~A "serious waste discharge violation" is defined to include a failure to file a certain discharge monitoring report for each complete period of 30 days following the deadline for submitting the report if certain conditions are met. Civil liability may be imposed administratively by the state board or a regional board or those boards may request the Attorney General to petition the superior court to impose the liability.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

*This bill would provide a publicly owned treatment works with the option of using an automatic composite sampler, in lieu of grab samples,*

*to collect representative samples for monitoring constituents that are subject to the mandatory minimum penalties.*

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 13385.1 of the Water Code is amended  
2 to read:

3 13385.1. (a) (1) For the purposes of subdivision (h) of Section  
4 13385, a “serious violation” also means a failure to file a discharge  
5 monitoring report that is required pursuant to Section 13383 for  
6 each complete period of 30 days following the deadline for  
7 submitting the report, if the report is designed to ensure compliance  
8 with limitations contained in waste discharge requirements that  
9 contain effluent limitations.

10 (2) Paragraph (1) applies only to violations that occur on or  
11 after January 1, 2004.

12 (b) (1) Notwithstanding any other provision of law, moneys  
13 collected pursuant to this section for a failure to timely file a report,  
14 as described in subdivision (a), shall be deposited in the State  
15 Water Pollution Cleanup and Abatement Account.

16 (2) Notwithstanding Section 13340 of the Government Code,  
17 the funds described in paragraph (1) are continuously appropriated,  
18 without regard to fiscal years, to the state board for expenditure  
19 by the state board to assist regional boards, and other public  
20 agencies with authority to clean up waste or abate the effects of  
21 the waste, in responding to significant water pollution problems.

22 (c) For the purposes of this section, paragraph (2) of subdivision  
23 (f) of Section 13385, and subdivisions (h), (i), and (j) of Section  
24 13385 only, “effluent limitation” means a numeric restriction or  
25 a numerically expressed narrative restriction, on the quantity,  
26 discharge rate, concentration, or toxicity units of a pollutant or  
27 pollutants that may be discharged from an authorized location. An  
28 effluent limitation may be final or interim, and may be expressed  
29 as a prohibition. An effluent limitation, for those purposes, does  
30 not include a receiving water limitation, a compliance schedule,  
31 or a best management practice.

32 (d) *A publicly owned treatment works shall have the option of*  
33 *using an automatic composite sampler, in lieu of grab samples,*

- 1 *to collect representative samples for monitoring constituents that*
- 2 *are subject to the minimum mandatory penalties contained in*
- 3 *Section 13385.*

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