

Complete Text of Selected Solid Waste Bills

- AB 222 Adams & Ma Energy: biofuels
- AB 283 Chesbro Solid waste: extended producer responsibility program
- AB 479 Chesbro Solid waste: diversion
- AB 546 Lowenthal Used oil
- AB 907 Chesbro CA Oil Recycling Enhancement Act: rerefined oil
- SB 25 Padilla Solid waste: diversion
- SB 730 Wiggins Solid waste: grants and loans: eligibility

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 222

**Introduced by Assembly Members Adams and Ma
(Coauthors: Assembly Members Blakeslee, Fletcher, Fuentes,
Galgiani, Gilmore, Mendoza, Smyth, and Torrico)**

February 4, 2009

An act to amend Sections 25741, 25806, ~~40194~~, and ~~40201~~ and 40194 of, and to repeal Section 40117 of *add Section 41786.5 to*, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 222, as amended, Adams. Energy: biofuels.

(1) Existing law establishes the Public Interest Research, Development, and Demonstration Fund in the State Treasury, and provides that the money collected by the public goods charge to support cost-effective energy efficiency and conservation activities and public interest energy research, development, and demonstration projects not adequately provided by competitive and regulated markets, be deposited in the fund for use by the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law requires the Energy Commission to use those funds to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program to develop technologies to, among other things, improve environmental quality, enhance electrical system reliability, increase efficiency of energy-using technologies, lower electrical system costs, or provide other tangible benefits to electric utility customers.

Existing law defines “in-state renewable electricity generation facility” for the purposes of the program to include, among other things, a facility that uses municipal solid waste conversion.

This bill would instead define “in-state renewable electricity generation facility” to include a facility that uses conversion at a biorefinery. The bill would define “biorefinery” to mean a facility that uses a noncombustion thermal, chemical, biological, or mechanical conservation process, or a combination of those processes, to produce marketable products *electricity or a renewable fuel* from carbonaceous materials.

(2) The California Integrated Waste Management Act of 1989 requires cities and counties, on and after January 1, 2000, to divert 50% of all solid waste through source reduction, recycling, and composting activities. The act defines various terms, including “recycling” which means the process of collecting, sorting, cleansing, treating, and reconstituting solid waste and returning that solid waste to the economic mainstream in the form of raw material or new, reused, or reconstituted products, but excludes “transformation.” The act defines “transformation” to mean incineration, pyrolysis, distillation, or biological conversion, but excludes composting, gasification, and biomass conversion.

This bill would authorize a local jurisdiction to include solid waste diverted to a biorefinery in meeting a requirement to divert solid waste above 50% if the local jurisdiction makes specified certification to the California Integrated Waste Management Board and the board finds that the local jurisdiction has diverted at least 50% of all solid waste through source reduction, recycling, and composting. The bill would additionally define “solid waste facility” to include a biorefinery that primarily processes solid waste. ~~The bill would revise and recast the definition of “transformation” to exclude, among other things, solid waste conversion at a biorefinery from the definition of “transformation.” The bill would repeal the provision defining “gasification.” The bill would also make conforming changes.~~

Vote: majority. 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 25741 of the Public Resources Code is
- 2 amended to read:

1 25741. As used in this chapter, the following terms have the
2 following meaning:

3 (a) (1) *“Biorefinery” means a facility that uses a*
4 *noncombustion thermal, chemical, biological, or mechanical*
5 *conversion process, or a combination of those processes, to*
6 *produce electricity or a renewable fuel from carbonaceous*
7 *material, including, but not limited to, any of the following:*

8 (A) *Dedicated energy crops.*

9 (B) *Agricultural crop residues.*

10 (C) *Bark, lawn, yard, and garden clippings.*

11 (D) *Leaves, silvicultural residue, and tree and brush pruning.*

12 (E) *Wood, wood chips, and wood waste.*

13 (F) *Nonrecyclable pulp or nonrecyclable paper materials.*

14 (G) *Waste fat, oils, and greases.*

15 (H) *Other types of solid waste.*

16 (2) *A biorefinery shall satisfy all of the following criteria:*

17 (A) *Meet or exceed standards set by the State Air Resources*
18 *Board, local air pollution control districts, or local air quality*
19 *management districts regarding air contaminants or emissions,*
20 *including greenhouse gases, as defined in subdivision (g) of Section*
21 *38505 of the Health and Safety Code.*

22 (B) *Meet or exceed standards set by the State Water Resources*
23 *Control Board or regional water quality control boards regarding*
24 *discharges to surface waters or groundwaters of the state.*

25 (C) *Routinely test the ash or other residue from the facility at*
26 *least once quarterly, or on a more frequent basis as determined*
27 *by the agency responsible for regulating the testing and disposal*
28 *of ash or residue. Notwithstanding Section 25143.5 of the Health*
29 *and Safety Code, if hazardous wastes are present, the ash or*
30 *residue is sent to a class 1 hazardous waste disposal facility.*

31 (D) *Preprocess the solid waste feedstock to remove, to the*
32 *maximum extent feasible, all recyclable materials prior to the*
33 *conversion process.*

34 (E) *Meet all of the requirements of this division for solid waste*
35 *handling prior to the conversion process, and convert the solid*
36 *waste feedstock into products that have market value.*

37 (F) *Is in compliance with all applicable laws, regulations, and*
38 *ordinances.*

39 (a)

1 (b) "Delivered" and "delivery" mean the electricity output of
 2 an in-state renewable electricity generation facility that is used to
 3 serve end-use retail customers located within the state. Subject to
 4 verification by the accounting system established by the
 5 commission pursuant to subdivision (b) of Section 399.13 of the
 6 Public Utilities Code, electricity shall be deemed delivered if it is
 7 either generated at a location within the state, or is scheduled for
 8 consumption by California end-use retail customers. Subject to
 9 criteria adopted by the commission, electricity generated by an
 10 eligible renewable energy resource may be considered "delivered"
 11 regardless of whether the electricity is generated at a different time
 12 from consumption by a California end-use customer.

13 (b)

14 (c) "In-state renewable electricity generation facility" means a
 15 facility that meets all of the following criteria:

16 (1) (A) The facility uses biomass, solar thermal, photovoltaic,
 17 wind, geothermal, fuel cells using renewable fuels, small
 18 hydroelectric generation of 30 megawatts or less, digester gas,
 19 conversion at a biorefinery, landfill gas, ocean wave, ocean thermal,
 20 or tidal current, and any additions or enhancements to the facility
 21 using that technology.

22 (B) For the purposes of this paragraph, "biorefinery" means a
 23 facility that uses a noncombustion thermal, chemical, biological,
 24 or mechanical conversion process, or a combination of those
 25 processes, to produce marketable products, including, but not
 26 limited to, renewable fuels, chemicals, and electricity, from a
 27 carbonaceous material, including, but not limited to, any of the
 28 following:

29 (i) Dedicated energy crops.

30 (ii) Agricultural crop residues.

31 (iii) Bark, lawn, yard, and garden clippings.

32 (iv) Leaves, silvicultural residue, and tree and brush pruning.

33 (v) Wood, wood chips, and wood waste.

34 (vi) Nonrecyclable pulp or nonrecyclable paper materials.

35 (vii) Waste fat, oils, and greases.

36 (viii) Other types of solid waste.

37 (C) A "biorefinery" that receives solid waste feedstock shall
 38 satisfy all of the following criteria:

39 (i) Meet or exceed standards set by the State Air Resources
 40 Board, local air pollution control districts, or local air quality

- 1 ~~management districts regarding air contaminants or emissions,~~
2 ~~including greenhouse gases, as defined in subdivision (g) of Section~~
3 ~~38505 of the Health and Safety Code.~~
- 4 ~~(ii) Meet or exceed standards set by the State Water Resources~~
5 ~~Control Board or regional water quality control boards regarding~~
6 ~~discharges to surface waters or groundwaters of the state.~~
- 7 ~~(iii) Routinely test the ash or other residue from the facility at~~
8 ~~least once quarterly, or on a more frequent basis as determined by~~
9 ~~the agency responsible for regulating the testing and disposal of~~
10 ~~ash or residue. Notwithstanding Section 25143.5 of the Health and~~
11 ~~Safety Code, if hazardous wastes are present, the ash or residue is~~
12 ~~sent to a class 1 hazardous waste disposal facility.~~
- 13 ~~(iv) Preprocess the solid waste feedstock to remove, to the~~
14 ~~maximum extent feasible, all recyclable materials prior to the~~
15 ~~conversion process.~~
- 16 ~~(v) Meet all of the requirements of this division for solid waste~~
17 ~~handling prior to the conversion process, and convert the solid~~
18 ~~waste feedstock into products that have market value.~~
- 19 ~~(vi) Is in compliance with all applicable laws, regulations, and~~
20 ~~ordinances.~~
- 21 (2) The facility satisfies one of the following requirements:
- 22 (A) The facility is located in the state or near the border of the
23 state with the first point of connection to the transmission network
24 within this state and electricity produced by the facility is delivered
25 to an in-state location.
- 26 (B) The facility has its first point of interconnection to the
27 transmission network outside the state and satisfies all of the
28 following requirements:
- 29 (i) It is connected to the transmission network within the
30 Western Electricity Coordinating Council (WECC) service
31 territory.
- 32 (ii) It commences initial commercial operation after January 1,
33 2005.
- 34 (iii) Electricity produced by the facility is delivered to an in-state
35 location.
- 36 (iv) It will not cause or contribute to any violation of a California
37 environmental quality standard or requirement.
- 38 (v) If the facility is outside of the United States, it is developed
39 and operated in a manner that is as protective of the environment
40 as a similar facility located in the state.

1 (vi) It participates in the accounting system to verify compliance
2 with the renewables portfolio standard by retail sellers, once
3 established by the Energy Commission pursuant to subdivision
4 (b) of Section 399.13 of the Public Utilities Code.

5 (C) The facility meets the requirements of clauses (i), (iii), (iv),
6 (v), and (vi) in subparagraph (B), but does not meet the
7 requirements of clause (ii) because it commences initial operation
8 prior to January 1, 2005, if the facility satisfies either of the
9 following requirements:

10 (i) The electricity is from incremental generation resulting from
11 expansion or repowering of the facility.

12 (ii) The facility has been part of the existing baseline of eligible
13 renewable energy resources of a retail seller established pursuant
14 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
15 Utilities Code or has been part of the existing baseline of eligible
16 renewable energy resources of a local publicly owned electric
17 utility established pursuant to Section 387 of the Public Utilities
18 Code.

19 (e)

20 (d) "Procurement entity" means any person or corporation that
21 enters into an agreement with a retail seller to procure eligible
22 renewable energy resources pursuant to subdivision (f) of Section
23 399.14 of the Public Utilities Code.

24 (d)

25 (e) "Renewable energy public goods charge" means that portion
26 of the nonbypassable system benefits charge authorized to be
27 collected and to be transferred to the Renewable Resource Trust
28 Fund pursuant to the Reliable Electric Service Investments Act
29 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part
30 1 of Division 1 of the Public Utilities Code).

31 (e)

32 (f) "Report" means the report entitled "Investing in Renewable
33 Electricity Generation in California" (June 2001, Publication
34 Number P500-00-022) submitted to the Governor and the
35 Legislature by the commission.

36 (f)

37 (g) "Retail seller" means a "retail seller" as defined in Section
38 399.12 of the Public Utilities Code.

39 SEC. 2. Section 25806 of the Public Resources Code is
40 amended to read:

1 25806. (a) A person who submits to the commission an
2 application for certification for a proposed generating facility shall
3 submit with the application a fee of one hundred thousand dollars
4 (\$100,000) plus two hundred fifty dollars (\$250) per megawatt of
5 gross generating capacity of the proposed facility. The total fee
6 accompanying an application may not exceed three hundred fifty
7 thousand dollars (\$350,000).

8 (b) A person who receives certification of a proposed generating
9 facility shall pay an annual fee of fifteen thousand dollars
10 (\$15,000). The first payment of the annual fee is due on the date
11 this section takes effect. For a facility certified on or after the
12 effective date of this section, the first payment of the annual fee
13 is due on the date the commission adopts the final decision. All
14 subsequent payments are due by July 1 of each year in which the
15 facility retains its certification. The fiscal year for the annual fee
16 is July 1 to June 30, inclusive.

17 (c) The fees in subdivisions (a) and (b) shall be adjusted annually
18 to reflect the percentage change in the Implicit Price Deflator for
19 State and Local Government Purchases of Goods and Services, as
20 published by the United States Department of Commerce.

21 (d) No fee is required to accompany an application for
22 certification, and no annual fee is required thereafter, for a
23 generating facility that uses a renewable resource as its primary
24 fuel or power source. For purposes of this subdivision, a renewable
25 resource includes, but is not limited to, biomass, solar thermal,
26 geothermal, digester gas, conversion at a biorefinery as defined in
27 subparagraphs (B) and (C) of paragraph (1) of subdivision (b) of
28 Section 25741, landfill gas, ocean thermal, and solid waste
29 converted to a clean burning fuel by using a noncombustion thermal
30 process.

31 (e) The Energy Facility License and Compliance Fund is hereby
32 created in the State Treasury. All fees received by the commission
33 pursuant to this section shall be remitted to the Treasurer for
34 deposit in the fund. The money in the fund shall be expended, upon
35 appropriation by the Legislature, for processing applications for
36 certification and for compliance monitoring.

37 ~~SEC. 3. Section 40117 of the Public Resources Code is~~
38 ~~repealed.~~

1 ~~SEC. 4.~~

2 *SEC. 3.* Section 40194 of the Public Resources Code is
3 amended to read:

4 40194. "Solid waste facility" includes a solid waste transfer
5 or processing station, a composting facility, *a gasification facility*,
6 a transformation facility, a biorefinery as defined in subparagraphs
7 (B) and (C) of paragraph (1) of subdivision (b) of Section 25741
8 that primarily ~~that~~ processes solid waste, and a disposal facility.
9 For purposes of Part 5 (commencing with Section 45000), "solid
10 waste facility" additionally includes a solid waste operation that
11 may be carried out pursuant to an enforcement agency notification,
12 as provided in regulations adopted by the board.

13 ~~SEC. 5.~~ Section 40201 of the Public Resources Code is
14 amended to read:

15 40201. "Transformation" means the incineration of solid waste,
16 with or without the recovery of energy. "Transformation" does
17 not include composting, biomass conversion, or solid waste
18 conversion at a biorefinery as defined in subparagraphs (B) and
19 (C) of paragraph (1) of subdivision (b) of Section 25741.

20 *SEC. 4.* Section 41786.5 is added to the Public Resources Code,
21 to read:

22 41786.5. (a) *A local jurisdiction shall not include solid waste*
23 *diverted to a biorefinery in meeting the requirement to divert 50*
24 *percent of all solid waste. A local jurisdiction may include solid*
25 *waste diverted to a biorefinery in meeting a requirement to divert*
26 *solid waste that is above 50 percent. A local jurisdiction shall*
27 *certify to the board that the local jurisdiction is in compliance*
28 *with this division and has reduced, recycled, or composted solid*
29 *waste to the maximum extent feasible and the board makes a*
30 *finding that the local jurisdiction has diverted at least 50 percent*
31 *of all solid waste through source reduction, recycling, and*
32 *composting.*

33 (b) (1) *As used in this section, "biorefinery" has the same*
34 *meaning as that set forth in Section 25741.*

35 (2) *A gasification facility is not a biorefinery.*

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AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 283

**Introduced by Assembly Member Chesbro
(Principal coauthor: Assembly Member Ruskin)
(Coauthors: Assembly Members Evans, Huffman, and Nava)**

February 12, 2009

An act to add Chapter 5 (commencing with Section 48800) to Part 7 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 283, as amended, Chesbro. Solid waste: extended producer responsibility program.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

This bill would create the California Product Stewardship Act of 2009 and would require the board to administer the program. The bill would require the board to adopt regulations by July 1, 2011, in order to implement the program to provide environmentally sound product stewardship protocols that encourage producers to research alternatives during the product design and packaging phases to foster cradle-to-cradle producer responsibility and reduce the end-of-life environmental impacts of the product.

The bill, on and after January 1, 2012, would require the board to select covered products, as defined, according to certain requirements. The bill would exempt the selection of covered products from the requirements of the Administrative Law Procedure Act. On and after July 1, 2012, a covered product would be prohibited from being sold or used for promotional purposes unless the producer or product stewardship organization, as defined, of the covered product, submits a product stewardship plan to the board that meets certain timelines and content requirements, including, but not limited to, a description of the system for collecting discarded covered products, methods proposed to maximize the recycling of packaging, a description of the processing and disposal system, and strategies for managing and reducing the life cycle impacts of covered products and packaging such as through redesign.

The bill would establish an annual reporting requirement for producers or stewardship organizations, require administrative fees to be set by the board, and authorize civil penalties of up to \$50,000 to be imposed by the board. The bill would require that the administrative fees be deposited into the Extended Producer Responsibility Account and that the penalties be deposited into the Extended Producer Responsibility Penalty Subaccount that the bill would create in the Integrated Waste Management Fund. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the board's program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of covered products.

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

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

- 1 SECTION 1. Chapter 5 (commencing with Section 48800) is
- 2 added to Part 7 of Division 30 of the Public Resources Code, to
- 3 read:

1 CHAPTER 5. CALIFORNIA PRODUCT STEWARDSHIP ACT OF 2009

2
3 Article 1. Findings and Declarations

4
5 48800. (a) The Legislature finds and declares all of the
6 following:

7 (1) California has long been a national and international leader
8 in environmental stewardship efforts and mandating the diversion
9 of solid waste from disposal.

10 (2) By exercising a leadership role, the state will move forward
11 toward a future in which the environment and the economy both
12 grow stronger together by recycling more and reusing materials,
13 which encourages new markets and creates new jobs, instead of
14 burying resources that are lost to the economy forever.

15 ~~(3) The California Integrated Waste Management Board~~
16 ~~(CIWMB) board~~ is the state agency charged with monitoring and
17 regulating activities to reduce, recycle, and reuse solid waste
18 generated in the state to the maximum extent feasible in an efficient
19 and cost-effective manner to conserve water, energy, and other
20 natural resources, and to protect the environment.

21 ~~(4) The CIWMB board~~ currently oversees regulation of the
22 state's solid waste stream while local government is responsible
23 for solid waste management within its jurisdiction.

24 ~~(5) To meet the mandates of the Integrated Waste Management~~
25 ~~Act of 1989, the CIWMB this division, the board~~ develops and
26 implements programs in accordance with the act's waste
27 management hierarchy, pursuant to Section 40051 of the Public
28 Resources Code.

29 (6) End-of-life management of solid waste has been the
30 responsibility of the state and local governments with the financial
31 burden placed on both local government and the taxpayers.

32 (7) Local governments throughout California are also working
33 hard to meet expanding environmental mandates to reduce solid
34 waste generation and landfill disposal, to prevent hazardous wastes
35 from being improperly disposed of, and to keep the rivers, streams,
36 and waterways free of trash. These mandates expose local
37 governments to significant financial burdens for end-of-life
38 management of products at a time when local governments are
39 struggling with significant budgetary constraints.

1 (8) The concept of product stewardship, also referred to as
2 extended producer responsibility, seeks to create shared
3 responsibility mechanisms for producers to mitigate or even
4 eliminate the negative impacts of their products at the end of its
5 life.

6 (9) The ~~CIWMB~~ *board* adopted a final “Extended Producer
7 Responsibility Framework” policy document in 2008 to guide
8 efforts to reduce the end-of-life environmental impacts of products
9 and require that producers share in the responsibility for the
10 stewardship of their products in order to promote environmental
11 sustainability.

12 (10) Currently, the state addresses products with end-of-life
13 management issues through a patchwork of product and material
14 specific programs that have experienced various levels of success.

15 (11) Establishing the Extended Producer Responsibility
16 Framework Program under this chapter offers an alternative to the
17 materials and products approach while providing the flexibility to
18 customize individual product stewardship plans toward the most
19 effective and efficient approach for a particular product or product
20 category.

21 (12) The generation of solid waste and associated management
22 has the potential to harm natural resources and contribute to global
23 warming, which can place an economic burden on local
24 government. Disposal of solid waste prevents materials from
25 circulating in the state’s economy in order to produce jobs and
26 new products.

27 (13) It is necessary for producers to design and manufacture
28 products that are more resource efficient, less hazardous, have
29 fewer greenhouse gas impacts, and are more recyclable.

30 (14) Convenient and environmentally sound product stewardship
31 programs that include collecting, transporting, and recycling
32 unwanted products will help protect California’s environment and
33 the health of state residents by encouraging producers to design
34 and produce products that have a lower carbon footprint, are less
35 hazardous and energy and material intensive, and are more reusable
36 or recyclable than other products.

37 (15) This chapter directs the ~~CIWMB~~ *board* to develop,
38 implement, and administer the Extended Producer Responsibility
39 Framework Program. The program includes a framework for
40 managing individual products that have significant end-of-life

1 waste management impacts as well as impacts on the environment
2 and public health.

3
4 Article 2. General Provisions

5
6 48800.1. This act shall be known and may be cited as the
7 California Product Stewardship Act of 2009.

8 48800.1.5. (a) The act shall apply the extended producer
9 responsibility approach to a broad range of problem products,
10 packaging, and materials and offers an opportunity to reduce waste
11 and increase recycling by customizing individual product
12 stewardship plans toward the most effective and efficient approach
13 for a particular product or product category.

14 (b) (1) It is the intent of the Legislature that the ~~CIWMB~~ *board*
15 coordinate with other state agencies such as the Department of
16 Toxic Substances Control, the Department of Conservation, and
17 the State Water Resources Control Board, as well as local
18 jurisdictions, industry sectors, business groups, environmental
19 organizations, and other interested stakeholders in implementing
20 this chapter.

21 (2) It is the intent of the Legislature that in developing the
22 framework, the ~~CIWMB~~ *board* design performance goals for
23 covered products that reduce the end-of-life and life cycle impacts
24 of covered products.

25 (3) It is the intent of the Legislature that the ~~CIWMB~~ *board*
26 design the program to help satisfy the waste diversion requirements
27 of the ~~Integrated Waste Management Act of 1989~~ *this division* in
28 a manner that minimizes costs and maximizes benefits for
29 California's economy, improves the end-of-life management of
30 products, and maximizes additional environmental and economic
31 benefits for California.

32 (4) It is the intent of the Legislature, recognizing local
33 government land use authority, to encourage the development of
34 the additional materials processing capacity that is needed to meet
35 state objectives for decreasing solid waste disposal by identifying
36 incentives for local governments and businesses to locate and
37 approve new or expanded facilities that meet and exceed their
38 capacity needs, and to recognize those entities that make significant
39 contributions to the state's overall solid waste reduction and

1 recycling objectives through the siting of facilities for the
2 processing of materials diverted from the solid waste stream.

3

4

Article 3. Definitions

5

6 48800.2. For purposes of this chapter, and unless the context
7 otherwise requires, the definitions in this article govern the
8 construction of this chapter.

9 ~~48800.3. "Board" means the California Integrated Waste
10 Management Board.~~

11 48800.4. "Brand" means a name, symbol, word, or mark that
12 identifies a product, rather than its components, and attributes the
13 product to the owner or licensee of the brand as the producer.

14 48800.5. "Capture rate" is a component of the performance
15 goals for a covered product and means a quantitative measure that
16 establishes an amount of product to be collected by the product
17 stewardship system for that product by an established date.

18 48800.6. "Covered product" means a consumer product used
19 or disposed of in this state that has been selected by the board
20 pursuant to Section 48813.

21 48800.7. "Cradle-to-cradle design" means an ideal condition
22 where the product is developed for closed-loop systems in which
23 every ingredient is safe and beneficial.

24 48800.8. "Department" means the Department of Toxic
25 Substances Control.

26 48800.9. "Disposition rate" is a component of the performance
27 goals for a covered product and means a quantitative measure that
28 establishes the amounts of unwanted product that are reused,
29 recycled, or recovered, including energy recovery or safe disposal.

30 48800.10. "Extended producer responsibility" means the
31 extension of the shared responsibility of producers, and all entities
32 involved in the product chain, to reduce the cradle-to-cradle
33 impacts of a product and its packaging, with the primary
34 responsibility being with the producer who makes design and
35 marketing decisions.

36 48800.11. "Historic product" means a covered product ready
37 to be discarded by the user that is not a new product or product
38 currently marketed or sold by the manufacturer.

39 48800.12. "Orphan product" means any one of the following:
40 (a) A covered product that lacks a manufacturer's brand.

1 (b) A covered product for which the manufacturer is no longer
2 in business and has no successor in interest.

3 (c) A covered product that is a brand for which the board cannot
4 identify an owner.

5 48800.13. "Performance goal" means product goals, capture
6 rates, and disposition rates established by the board for covered
7 products.

8 48800.14. "Producer" means one of the following:

9 (a) A person or entity that manufactures a covered product that
10 sells, offers for sale, or distributes that covered product in
11 California under the manufacturer's own name or brand.

12 (b) If subdivision (a) does not apply, a person who is not the
13 manufacturer of the product but is the owner or licensee of a
14 trademark or brand under which a product is sold or distributed in
15 California, whether or not the trademark is registered.

16 (c) If subdivisions (a) and (b) do not apply, a person who imports
17 the product into California for sale or distribution.

18 48800.15. "Product goal" is a component of the performance
19 goals for a covered product and means a qualitative or quantitative
20 goal to measure improvements that reduce the life cycle impacts
21 of products. It shall include product design and materials content,
22 manufacturing, packaging, distribution, and end-of-life
23 management. It shall address use of virgin material, water, energy,
24 and hazardous substances, as well as carbon footprint, product
25 longevity, recycled content, and recyclability.

26 48800.16. "Product stewardship organization" means all of the
27 following:

28 (a) An organization appointed by a producer or producers to act
29 as an agent on behalf of the producer or producers to design,
30 submit, and administer a product stewardship plan.

31 (b) The organization shall be open for participation by all
32 producers of a covered product.

33 48800.17. "Product stewardship plan" means a plan written
34 by an individual producer or a stewardship organization, on behalf
35 of a producer, that addresses the environmental impacts of a
36 covered product over the entire life cycle of that product, including
37 product design, manufacture, and distribution, and the collection,
38 transportation, reuse, recycling, and final disposition of discarded
39 covered products as provided in this chapter.

1 48800.18. "Reporting period" means the period commencing
 2 January 1 and ending on December 31 of the same calendar year.
 3 48800.19. "Retailer" means a person that offers new products
 4 for sale at retail through any means, including remote offerings
 5 such as sales outlets, catalogs, or an Internet Web site.
 6 48800.20. "Secondary material" means material that is being
 7 reused or recycled that would otherwise be disposed of in a landfill.
 8 48800.21. "Sell" or "sales" means any transfer of title for
 9 consideration, including remote sales conducted through sales
 10 outlets, catalogs, or an Internet Web site or similar electronic
 11 means, but does not include leases.

12
 13 Article 4. Extended Producer Responsibility Framework
 14 Program
 15

16 48810. (a) (1) The Extended Producer Responsibility
 17 Framework Program is hereby created.
 18 (2) The program shall be administered by the board.
 19 (3) The program shall provide environmentally sound product
 20 stewardship protocols that encourage producers to research
 21 alternatives during the product design and packaging phases to
 22 foster cradle-to-cradle producer responsibility and reduce the
 23 end-of-life environmental impacts.
 24 (b) For purposes of this chapter, the board shall review existing
 25 and proposed international, federal, and state extended producer
 26 responsibility programs and make reasonable efforts to promote
 27 consistency among the programs established pursuant to this part
 28 and those other programs.
 29 (c) To ensure the goals of this article are achieved successfully
 30 and efficiently, the board shall collaborate with representatives of
 31 state and local government, producers, retailers, consumers,
 32 transporters, haulers, recyclers, nonprofit organizations, and other
 33 interested stakeholders with respect to all regulations adopted
 34 pursuant to this article and shall consider the net economic impacts
 35 and benefits of a product stewardship plan prior to its approval.
 36 (d) (1) By July 1, 2011, the board, following one or more
 37 noticed public workshops and in consultation with the State Air
 38 Resources Board, the Department of Conservation, the State
 39 Department of Public Health, the Department of Toxic Substances
 40 Control, the State Water Resources Control Board, and other

1 appropriate state agencies, shall adopt regulations to implement
2 this chapter.

3 (2) The board shall also consult with other state and local
4 environmental regulatory agencies, as well as representatives of
5 local government, producers, retailers, consumers, transporters,
6 haulers, recyclers, nonprofit organizations, and other interested
7 stakeholders in adopting the regulations.

8 (e) The board, in addition to any other regulations necessary to
9 implement this chapter, shall do all of the following:

10 (1) Establish definitions.

11 (2) Establish a process for selecting covered products and
12 determining performance goals.

13 (3) Establish a process for product stewardship plan
14 development, review, and submittal.

15 (4) Establish a process for providing data and reporting to the
16 board.

17 (5) (A) Prepare recommendations, in consultation with local
18 government and the business community, for immediate incentives
19 for producers that stimulate waste reduction, pollution prevention,
20 energy efficiency, and increased secondary use of recycled and
21 reused materials that would otherwise be disposed of.

22 (B) The incentives specified in subparagraph (A) may include,
23 but are not limited to, an expedited approach to state-issued permits
24 needed to implement product stewardship programs, recognizing
25 local government land use authority, investments in more market
26 development, cost-effective energy savings and reducing water
27 usage, tax incentives for utilizing renewable resources, loans from
28 the Recycling Market Development Revolving Loan Program
29 pursuant to Section 42023.1 to qualifying product stewardship
30 organizations for startup of stewardship programs, and further
31 incentives for designing products and processing facilities from
32 recycled and reused materials that would otherwise be disposed
33 of.

34 (C) Nothing in this section shall be construed to interfere with
35 a local government's sole authority over local ~~land-use~~ *land use*
36 decisions.

37 (6) Prepare recommendations for long-term incentives to foster
38 environmental product design to reduce waste and use of hazardous
39 materials, to reward businesses for superior environmental
40 performance that results in significant solid or hazardous waste

1 reduction or increased use of secondary materials, and for
2 investments that support longer term change to material markets
3 and market development.

4 (7) Prepare recommendations for funding incentives, by
5 consulting with product stewardship stakeholders to determine
6 how to fund additional cradle-to-cradle stewardship initiatives and
7 disincentives for solid waste disposal as a viable option.

8 (8) Establish penalties for violations of this chapter.

9 (9) Develop guidelines designed to ensure that activities
10 undertaken pursuant to this chapter do not ~~interfere~~ *overlap,*
11 *duplicate, or conflict* with the following:

12 (A) Efforts by the department undertaken pursuant to Article
13 14 (commencing with Section 25251) of Chapter 6.5 of Division
14 20 of the Health and Safety Code.

15 (B) The State Energy Resources Conservation and Development
16 Commission's energy efficiency programs.

17 (C) The State Air Resources Board climate change efforts to
18 achieve and maintain state and federal ambient air quality standards
19 and reduce greenhouse gas emissions.

20 (D) The State Water Resources Control Board efforts for water
21 quality protection.

22 (E) The Ocean Protection Council's ocean litter reduction
23 efforts.

24 (F) The Beverage Container Recycling and Litter Reduction
25 Act (Division 12.1 (commencing with Section 14500)).

26 (G) The Rigid Plastic Packaging Containers Program pursuant
27 to Chapter 5.5 (commencing with Section 42300) of Part 3.

28 (H) *Any other state product stewardship or life cycle law or*
29 *regulatory program for a product.*

30 48811. (a) Nothing in this chapter or any regulation adopted
31 or actions taken by the board pursuant to this chapter shall be
32 interpreted to limit, abrogate, supersede, duplicate, or otherwise
33 conflict with federal law, federal policy, or federal treaty
34 obligations.

35 (b) Nothing in this chapter or any regulation adopted or actions
36 taken by the board pursuant to this chapter shall be interpreted to
37 limit, supersede, duplicate, or otherwise conflict with the authority
38 of the department under Section 25257.1 of the Health and Safety
39 Code to fully implement Article 14 (commencing with Section
40 25251) of Chapter 6.5 of Division 20 of the Health and Safety

1 Code, including the authority of the department to include products
2 in its product registry.

3 48812. As a part of the board's annual report to the Legislature
4 pursuant to Section 40507, the board shall include a section on the
5 progress and implementation of the Extended Producer
6 Responsibility Framework Program.

7 48813. On and after January 1, 2012, the board, in consultation
8 with all appropriate state agencies and local governments, and
9 after one or more noticed public workshops with an opportunity
10 for all interested parties to comment, shall select covered products
11 according to the following requirements:

12 (a) The board shall only select covered products that have been
13 identified with environmental, waste management, and health
14 impacts resulting from the manufacture, transport, use, and
15 disposal, that meet one or more of the following criteria:

16 (1) Those products that pose a significant threat to public health
17 and safety when discarded.

18 (2) Products that pose a threat of increased greenhouse gas
19 emissions.

20 (3) Products that impose significant end-of-life management
21 costs on state or local government.

22 (b) The factors the board shall consider in selecting covered
23 products pursuant to subdivision (a) shall include, but are not
24 limited to, the following:

25 (1) Current impacts to local government and general ratepayers.

26 (2) Public health, toxicity, and significant environmental and
27 safety impacts and benefits.

28 (3) Resource recovery and material conservation potential,
29 including the potential for product redesign to achieve greater
30 waste reduction, toxicity reduction, water consumption reduction,
31 increase in recycled content, and greater capability for being
32 recycled.

33 (4) Energy use and conservation potential.

34 (5) Climate change impacts and benefits.

35 (6) Existing infrastructure capacity for material management
36 and potential for expansion.

37 (7) Success in collecting and processing similar products in
38 other programs in the United States and other countries.

39 (8) The selection of products in extended producer responsibility
40 programs in other states.

1 (9) Ocean pollution impacts.

2 (10) Stormwater runoff impacts.

3 (11) The lack of an existing product stewardship or other
4 regulatory system for the product.

5 (12) Life cycle net environmental impacts.

6 (13) Public safety and public health uses of products.

7 (c) The board may select covered products and set performance
8 goals over time at regularly scheduled board meetings. All products
9 banned from landfill disposal in California shall be designated
10 within one year of adoption of the regulations pursuant to Section
11 48810, and shall be managed under a product stewardship program.

12 (d) Through the product selection process, the board shall do
13 the following:

14 (1) Identify and notify potential interested parties for a proposed
15 covered product.

16 (2) Select and define a covered product or covered products.
17 This shall include historic and orphan products in addition to new
18 products.

19 (3) Determine whether the packaging for a covered product
20 shall be considered part of the covered product.

21 (4) Establish any implementation dates for requirements for
22 covered products.

23 (5) Identify unique environmental impacts or management
24 requirements, if any, for a covered product.

25 (6) Set performance goals and timeframes for the covered
26 product.

27 (7) Establish measurement metrics and reporting protocols for
28 the covered product.

29 (e) The selection process for covered products described in this
30 section shall not be subject to the requirements of Chapter 3.5
31 (commencing with Section 11340) of Part 1 of Division 3 of Title
32 2 of the Government Code. However, selected covered products
33 and associated performance goals shall be submitted to the Office
34 of Administrative Law for filing and printing with the Secretary
35 of State.

36 48814. (a) On and after July 1, 2012, a covered product shall
37 not be offered for sale or used for promotional purposes in this
38 state unless the producer or product stewardship organization of
39 the covered product submits a product stewardship plan in

1 accordance with this chapter and the regulations adopted pursuant
2 to subdivision (c) of Section 48810.

3 (b) A producer shall do all of the following:

4 (1) (A) Submit a product stewardship plan or participate in a
5 stewardship organization.

6 (B) The producer, however, shall maintain responsibility for
7 compliance with this chapter.

8 (2) (A) Collect the individual covered product pursuant to a
9 product stewardship plan to be reused or recycled, unless the board
10 determines that the covered product is not reusable or recyclable.

11 (B) Covered products that have been determined by the board
12 not to be recyclable nor reusable shall be disposed of or managed
13 in properly permitted facilities appropriate for the covered product,
14 including disposal or management of all hazardous products,
15 components, or materials in properly permitted hazardous waste
16 facilities appropriate for the product, component, or material.

17 (3) Provide for collection services without charging a fee at the
18 time that covered products are discarded and collected for recycling
19 or disposal.

20 (4) Pay all the administrative and operational costs associated
21 with the product stewardship plan, including the costs of collection,
22 transportation, and recycling or disposal, or both, of covered
23 products, including the costs of local government.

24 44815. (a) The producer or product stewardship organization
25 of a covered product shall submit a product stewardship plan to
26 the board.

27 (b) Each product stewardship plan for a covered individual
28 product shall include, at a minimum, all of the following:

29 (1) Contact information for all participating producers.

30 (2) A description of the product and associated brand covered
31 by the plan.

32 (3) A detailed description of how the performance goals set by
33 the board will be achieved.

34 (4) A description of methods proposed to be used to maximize
35 the recycling of packaging that is delivered into the program along
36 with the discarded covered product.

37 (5) A description of the collection system for collecting the
38 discarded covered product, including, but not limited to, the
39 following:

- 1 (A) How the discarded covered product will be collected in all
2 cities, cities and counties, and counties of the state.
- 3 (B) The entities that will perform collection services.
- 4 (C) How the collection system is available, convenient,
5 accessible, and free of charge statewide.
- 6 (D) Locations, hours, and days of operation for collection
7 locations.
- 8 (6) A description of the processing and disposal system,
9 including the following:
- 10 (A) How the discarded covered product will be reused and
11 recycled.
- 12 (B) If the covered product is not reusable nor recyclable, how
13 the covered product will be disposed of or managed in properly
14 permitted facilities appropriate to the covered product, including
15 the disposal or management of hazardous substances.
- 16 (C) The location and permit status of processing or disposal
17 facilities.
- 18 (D) Processing methods utilized at each facility and how
19 residuals will be handled.
- 20 (7) How the product stewardship plan will be financed, including
21 the following:
- 22 (A) The mechanism for securing and dispersing funds to cover
23 administrative, operational, and capital costs, including the
24 assessment of charges to producers who participate through a
25 stewardship organization.
- 26 (B) Adequate insurance and financial assurance for collection,
27 handling, and disposal operations.
- 28 (8) Strategies for managing and reducing the life cycle impacts
29 of covered products and packaging, including through redesign
30 and how impacts will be tracked over time to show continual
31 improvement.
- 32 (9) Education and outreach activities, including the following:
- 33 (A) Providing information to the general public on how to use
34 the collection system for a covered product.
- 35 (B) Providing information regarding the collection system to
36 collectors, including local governments if they are envisioned to
37 be part of the collection system, retailers, and other interested
38 parties.

1 (10) The consultation process used to consult with affected
2 stakeholders and the general public about the contents of the
3 product stewardship plan.

4 (c) Producers shall submit their product stewardship plan, or
5 updates to the product stewardship plan, to the board within 180
6 days following the selection of a covered product or 180 days prior
7 to the sale of a new covered product.

8 (d) Product stewardship plans shall be revised and submitted to
9 the board every four years.

10 (e) All product stewardship plans submitted to the board shall
11 be available to the public on the board's Internet Web site.

12 (f) A producer shall notify the board 30 days in advance of
13 instituting a material change to a product stewardship plan.

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Article 5. Reporting

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17 48820. (a) Beginning June 30, 2012, and every subsequent
18 year thereafter, each producer or stewardship organization
19 operating a product stewardship plan shall prepare and submit to
20 the board an annual report describing the activities of the product
21 stewardship program during the previous reporting period,
22 including, but not limited to, the following:

23 (1) How the product stewardship plan attained the performance
24 goals for the covered product, and if the performance goals were
25 not met, what actions the producer or stewardship organization
26 will take during the next reporting period to do so.

27 (2) A description of the outreach and education activities
28 undertaken during the reporting period.

29 (3) The actions undertaken to manage and reduce the life cycle
30 impacts of the covered products and packaging, from product
31 design to end-of-life management, including how the formulation,
32 packaging, and distribution of products have been improved to
33 reduce waste, reduce toxicity, reduce carbon footprint, reduce other
34 environmental impacts, increase recycled content, increase product
35 longevity, and make covered products more easily recyclable.

36 (b) All reports submitted to the board are required to be
37 approved by the board members at a monthly committee or board
38 hearing no later than 90 days after submittal.

39 (c) All reports submitted to the board shall be made available
40 to the public on the board's Internet Web site.

Article 6. Financial Provisions

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44825. (a) All producers shall submit an administrative fee to the board, according to a fee schedule established by the board.

(b) The total amount of annual fees collected pursuant to this section shall not exceed the amount necessary to recover costs incurred by the board in connection with the administration and enforcement of the requirements of this chapter.

48826. (a) The Extended Producer Responsibility Account and the Extended Producer Responsibility Penalty Subaccount are hereby established in the Integrated Waste Management Fund.

(b) All fees collected pursuant to this chapter shall be deposited in the Extended Producer Responsibility Account and may be expended by the board, upon appropriation by the Legislature, to cover the board's costs to implement this chapter.

(c) All penalties collected pursuant to this chapter shall be deposited in the Extended Producer Responsibility Penalty Subaccount and may be expended by the board, upon appropriation by the Legislature, to cover the board's costs to implement this chapter.

(d) All funds collected may be expended as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of covered products.

Article 7. Enforcement

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48830. (a) Civil liability in an amount of up to fifty thousand dollars (\$50,000) may be administratively imposed by the board against a producer for any violation of this chapter. The board shall deposit all penalties in the Extended Producer Responsibility Penalty Subaccount.

(b) The board shall adopt regulations that specify the procedures and amounts for the imposition of administrative civil penalties pursuant to this subdivision.

48831. The board, or its designee, is authorized to inspect, audit, or require and review third-party audits of producers, product stewardship organizations, and service providers including

- 1 collectors and recyclers that are utilized to fulfill the requirements
- 2 of a product stewardship plan.

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AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 479

Introduced by Assembly Member Chesbro

February 24, 2009

An act to amend Sections 41780 and 48000 of, and to add Sections 41780.01, 42649, and 48001.5 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

Existing law requires the board to review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the

board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would require a city or county to divert 60% of all solid waste through source reduction, recycling, and composting activities on and after January 1, 2015, thereby imposing a state-mandated local program by imposing new duties on local agencies regarding solid waste management. The bill would also require the board to establish policies, programs, and incentives to ensure diversion of solid waste in accordance with a specified schedule.

(2) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials per week to arrange for recycling service, consistent with state and local laws and requirements, to the extent that these services are offered and reasonably available from a local service provider. The bill would require specified local agencies, by January 1, 2011, to adopt commercial recycling ordinances that include certain minimum requirements.

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the adoption of commercial recycling ordinances.

(3) The act requires an operator of a solid waste disposal facility to pay a quarterly fee of up to \$1.40 per ton based on the amount of all solid waste disposed of at each disposal site and requires the State Board of Equalization to collect the fees and deposit the fees in the Integrated Waste Management Account in the Integrated Waste Management Fund in the State Treasury. The act requires the board to use the moneys in the account, upon appropriation by the Legislature, for specified purposes.

This bill would, on and after January 1, 2010, establish the amount of the fee in an amount of \$3.90 per ton and would require \$2.50 of that fee after that date to be available for expenditure by the board, upon appropriation by the Legislature, for apportionment to jurisdictions, as specified.

(4) 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. (a) The Legislature finds and declares both of
2 the following:

3 (1) Since the enactment of the California Integrated Waste
4 Management Act of 1989 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), local governments and
6 private industries have worked jointly to create an extensive
7 material collection and recycling infrastructure and have
8 implemented effective programs to achieve a statewide diversion
9 rate above 50 percent.

10 (2) Although the state now leads the nation in solid waste
11 reduction and recycling, the state continues to dispose of more
12 than 40 million tons of solid waste each year, which is more than
13 the national average on a per capita basis. Additional efforts must
14 be undertaken to divert more solid waste from disposal in order
15 to conserve scarce natural resources.

16 (b) The Legislature further finds and declares all of the
17 following:

18 (1) Approximately 64 percent of the state's solid waste disposal
19 is from commercial sources, including commercial, industrial,
20 construction, and demolition activities. In addition, 8 percent of
21 the state's solid waste disposal is from multifamily residential
22 housing that is often collected along with the commercial waste
23 stream.

24 (2) The state's local governments have made significant progress
25 in reducing the amount of solid waste disposal from single-family
26 residential sources that make up 28 percent of the state's disposal,
27 but have faced more challenges in reducing disposal from the
28 commercial and multifamily sources.

29 (3) The disposal of commercial solid wastes harms natural
30 resources, negatively impacts the state's environment, prevents
31 materials from circulating in the state economy to produce jobs
32 and new products, and contributes to global warming.

1 (4) The state has long been a national and international leader
2 in environmental stewardship efforts and mandating the diversion
3 of solid waste away from disposal. Bold environmental leadership
4 and a new approach are needed to divert commercial solid waste
5 away from disposal.

6 (5) By exercising a leadership role, the state will lead the
7 business community toward a future in which the environment
8 and the economy both grow stronger together by recycling
9 materials, which creates new jobs, instead of burying resources,
10 which exit the economy forever.

11 (6) By requiring commercial recycling, the state will help
12 businesses reduce costly disposal fees and reclaim valuable
13 resources.

14 (7) Solid waste diversion and disposal reduction requires the
15 availability of adequate solid waste processing and composting
16 capacity.

17 (8) The existing network of public and private solid waste
18 processing and composting facilities provides a net environmental
19 benefit to the communities served, and represents a valuable asset
20 and resource of this state, one that must be sustained and expanded
21 to provide the additional solid waste processing capacity that will
22 be required to achieve the additional solid waste diversion
23 mandates expressed in Section 41780 of the Public Resources
24 Code as amended by this act.

25 (9) It is the intent of the Legislature to encourage the
26 development of the additional solid waste processing and
27 composting capacity that is needed to meet state objectives for
28 decreasing solid waste disposal by identifying incentives for local
29 governments to locate and approve new or expanded facilities that
30 meet and exceed their capacity needs, and to recognize local
31 agencies that make significant contributions to the state's overall
32 solid waste reduction and recycling objectives through the siting
33 of facilities for the processing and composting of materials diverted
34 from the solid waste stream.

35 (10) The provisions in existing law that confer broad discretion
36 on local agencies to determine aspects of solid waste handling that
37 are of local concern have significantly contributed to the statewide
38 diversion rate exceeding 50 percent, and further progress toward
39 decreasing solid waste disposal requires that this essential element
40 of local control be preserved.

1 (11) Accordingly, by setting in this act new statewide solid
2 waste diversion requirements in Section 41780 of the Public
3 Resources Code, new solid waste diversion targets in Section
4 41780.01 of the Public Resources Code, and new commercial
5 waste recycling requirements in Section 42649 of the Public
6 Resources Code, the Legislature does not intend to limit a right
7 afforded to local governments pursuant to Section 40059 of the
8 Public Resources Code, or to modify or abrogate in any manner
9 the rights of a local government or solid waste enterprise with
10 regard to a solid waste handling franchise or contract granted on
11 or before January 1, 2010.

12 SEC. 2. Section 41780 of the Public Resources Code is
13 amended to read:

14 41780. (a) Each jurisdiction's source reduction and recycling
15 element shall include an implementation schedule that shows both
16 of the following:

17 (1) For the initial element, the jurisdiction shall divert 25 percent
18 of all solid waste by January 1, 1995, through source reduction,
19 recycling, and composting activities.

20 (2) Except as provided in Sections 41783 and 41784, for the
21 first and each subsequent revision of the element, the jurisdiction
22 shall divert 50 percent of all solid waste on and after January 1,
23 2000, through source reduction, recycling, and composting
24 activities.

25 (3) Except as provided in Sections 41783 and 41784, for each
26 subsequent revision of the element, the jurisdiction shall divert 60
27 percent of all solid waste on or after January 1, 2015, through
28 source reduction, recycling, and composting activities.

29 (b) This part does not prohibit a jurisdiction from implementing
30 source reduction, recycling, and composting activities designed
31 to exceed these requirements.

32 SEC. 3. Section 41780.01 is added to the Public Resources
33 Code, to read:

34 41780.01. The board shall adopt policies, programs, and
35 incentives to ensure that solid waste generated in this state is source
36 reduced, recycled, or composted in accordance with the following
37 schedule:

38 (a) On and before January 1, 2015, ensure that 60 percent of all
39 solid waste generated is source reduced, recycled, or composted.

1 (b) On or before January 1, 2020, and annually thereafter, ensure
2 that 75 percent of solid waste generated is source reduced, recycled,
3 and composted.

4 SEC. 4. Section 42649 is added to the Public Resources Code,
5 to read:

6 42649. (a) The owner or operator of a business that contracts
7 for solid waste services and generates more than four cubic yards
8 of total solid waste and recyclable materials that are not solid waste
9 per week shall arrange for recycling services, consistent with state
10 or local laws or requirements, including a local ordinance or
11 agreement, applicable to the collection, handling, or recycling of
12 solid waste, to the extent that these services are offered and
13 reasonably available from a local service provider.

14 (b) On or before January 1, 2011, each city, county, solid waste
15 authority, or other joint powers authority located within a county
16 with a population of 200,000 or more shall adopt a commercial
17 recycling ordinance that is consistent with this section.

18 (c) A commercial recycling ordinance adopted pursuant to this
19 section shall include, at a minimum, both of the following:

20 (1) An enforceable requirement that a commercial waste
21 generator take one of the following actions:

22 (A) Source separate specified recyclable materials from solid
23 waste and subscribe to a basic level of recycling service that
24 includes the collection of those recyclable materials or specific
25 provisions for authorized self-hauling.

26 (B) Subscribe to an alternative type of recycling service, which
27 may include mixed waste processing, that yields diversion results
28 comparable to source separation.

29 (2) Educational, implementation, and enforcement provisions.

30 (d) For the purposes of this section, "business" means a
31 commercial entity operated by a firm, partnership, proprietorship,
32 joint stock company, corporation, or association that is organized
33 as a for-profit or nonprofit entity.

34 (e) This section does not limit the authority of a local agency
35 to adopt, implement, or enforce a local commercial recycling
36 ordinance that is more stringent or comprehensive than the
37 requirements of this section or limit the authority of a local agency
38 in a county with a population of less than 200,000 to require
39 commercial recycling.

1 (f) This section does not modify or abrogate in any manner
2 either of the following:

3 (1) A franchise granted or extended by a city, county, or other
4 local government agency on or before January 1, 2010.

5 (2) A contract, license, or permit to collect solid waste
6 previously granted or extended by a city, county, or other local
7 government agency on or before January 1, 2010.

8 (3) The existing right of a business to sell or donate their
9 recyclable materials.

10 (g) (1) When adopting an ordinance pursuant to this section, a
11 local agency may consider the adequacy of areas for collecting
12 and loading recyclable materials.

13 (2) Notwithstanding paragraph (1), a local agency shall not
14 consider the adequacy of areas for collecting and loading recyclable
15 materials for purposes of determining noncompliance with this
16 section at a development project, as defined pursuant to Section
17 42905, if the development project was approved by the local
18 agency on or after September 1, 1994.

19 SEC. 5. Section 48000 of the Public Resources Code is
20 amended to read:

21 48000. (a) An operator of a disposal facility shall pay a fee
22 quarterly to the State Board of Equalization that is based on the
23 amount, by weight or volumetric equivalent, as determined by the
24 board, of all solid waste disposed of at each disposal site.

25 (b) On and after January 1, 2010, the amount of the fee shall
26 equal three dollars and ninety cents (\$3.90) per ton.

27 (c) The board and the State Board of Equalization shall ensure
28 that all the fees for solid waste imposed pursuant to this section
29 that are collected at a transfer station are paid to the State Board
30 of Equalization in accordance with this article.

31 (d) Notwithstanding Section 48001, on and after January 1,
32 2010, an amount of two dollars and fifty cents (\$2.50) of the fee
33 imposed for each ton of solid waste disposed of at each disposal
34 site shall be available to the board for expenditure pursuant to
35 Section 48001.5.

36 SEC. 6. Section 48001.5 is added to the Public Resources Code,
37 to read:

38 ~~48001.5. The fee revenues collected by the State Board of~~
39 ~~Equalization pursuant to subdivision (c) of Section 48000 shall be~~

1 48001.5. *The fee amount of two dollars and fifty cents (\$2.50)*
2 *per ton of solid waste described in subdivision (d) of Section 48000*
3 *that is collected by the board shall be available to the board, upon*
4 *appropriation by the Legislature, for expenditure by the board*
5 *according to the following:*

6 (a) Between January 1, 2010, and January 1, 2015, the fee
7 revenue shall be apportioned on a per capita basis to jurisdictions
8 for the expansion of source reduction, recycling, and composting
9 programs, including residential recycling programs and commercial
10 recycling programs, as well as the development of new and
11 expanded recycling and composting infrastructure.

12 (b) On and after January 1, 2015, the fee revenues shall be
13 apportioned on a per capita basis to jurisdictions that have achieved
14 the diversion rate specified in paragraph (3) of subdivision (a) of
15 Section 41780 for use pursuant to subdivision (a) of this section.
16 For jurisdictions that have not reach the diversion rate required in
17 paragraph (3) of subdivision (a) of Section 41780, the board shall
18 expend the fee revenues to establish local programs to help the
19 jurisdictions achieve the diversion rate required by paragraph (3)
20 of subdivision (a) of Section 41780.

21 SEC. 7. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act, within the meaning of Section
26 17556 of the Government Code.

O

Introduced by Senator Lowenthal

February 27, 2009

An act to add Section 25250.29 to the Health and Safety Code, and to amend Sections 48100, 48620, 48623, 48624, 48631, 48632, 48645, 48650, 48651, 48652, 48653, 48656, 48660, 48660.5, 48661, 48662, and 48673 of, and to add Section 48620.2 to 48670, 48673, 48674, 48690, and 48691 of, to add Sections 48620.2 and 48651.5 to, and to repeal Sections 48633 and 48634 of, the Public Resources Code, relating to oil, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 546, as amended, Lowenthal. Used oil.

~~(1) The California Oil Recycling Enhancement Act requires the California Integrated Waste Management Board to adopt a used oil recycling program that promotes and develops alternatives to the illegal disposal of used oil, and requires the program to include, among other things, a reporting, monitoring, and enforcement program to ensure that all laws relating to used oil are properly carried out. The act defines terms for its purposes, including "used oil hauler" and "used oil recycling facility." The act requires the board to certify or recertify a used oil recycling facility for which the board has received an inspection report, unless the board determines that the facility is engaged in a repeating or recurring pattern of noncompliance that poses a significant threat to public health and safety or the environment. If the board denies certification, it is authorized to subsequently certify a facility if it determines that the facility meets the standards for certification. Existing law requires a used oil recycling facility to report to the board for each~~

quarter the amount of used oil received and the amount of recycled oil produced. A violation of the act is a crime.

~~This bill would revise the certification requirements to also require the board to certify or recertify a used oil recycling facility that is an out-of-state facility and for which the board has received a report from the Department of Toxic Substances Control that the out-of-state facility has demonstrated that the facility substantially meets specified federal requirements related to the management of used oil and recycles used lubricating oil to meet specified purity standards for recycled oil. The bill would require an out-of-state facility, as a condition of demonstrating that compliance, to enter into an agreement with the department to pay the department's full expenses for conducting related review and inspection costs. The bill would require an out-of-state facility that seeks certification to annually certify, in writing to the board and under penalty of perjury, that the facility substantially meets those specified federal requirements, thereby imposing a state-mandated local program by creating a new crime. The bill would revise the quarterly reporting requirement to require a used oil recycling facility issued a specified permit to produce recycled oil and an out-of-state used oil recycling facility that is certified by the board to report to the board for each quarter the amount of used oil received and the amount of recycled oil produced.~~

~~The bill would revise the definitions of "used oil hauler" and "used oil recycling facility" to conform to those changes, and would define "rerefined oil" for purposes of the act.~~

(1) The California Oil Recycling Enhancement Act, administered by the California Integrated Waste Management Board, among other things, defines terms and establishes the used oil recycling program, consisting of a recycling incentive system, grants or loans to local governments and nonprofit entities for specified purposes related to used lubricating oil collection and recycling and stormwater pollution from used oil and oil byproducts, development and implementation of an information and education program to promote alternatives to the illegal disposal of used oil, and a reporting, monitoring, and enforcement program to ensure that laws relating to used oil are properly carried out. A violation of the act is a crime.

This bill would revise the definitions of "used oil hauler" and "used oil recycling facility," and define the term "rerefined oil," for purposes of the act, and would revise and recast the used oil recycling program, so that, among other things, it would no longer provide for loans, and

it would provide for the development and implementation of an information and education program to promote methods to reduce the amounts of used oil generated and to promote environmentally preferable uses of recycled oil, including the use of rerefined oil in automotive and industrial lubricants. The bill would revise the purposes for which grants under the program may be made, including to promote the manufacture of rerefined lubricating oil, and would authorize grants additionally to be made to private entities.

(2) The act generally imposes a charge on oil manufacturers, payable to the board, in the amount of \$0.04 for every quart, or \$0.16 for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state.

This bill would increase those amounts to \$0.06 and \$0.24, respectively, and would require the board, commencing in 2011, to adjust the base rate of the payment annually to reflect increases or decreases in the cost of living during the prior fiscal year.

(3) The act requires the board to pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil if certain conditions apply, and to an electric utility, as defined, for certain used lubricating oil. Existing law requires the board to set the recycling incentive amount at not less than \$0.04 per quart, and authorizes the board to set the amount at a higher amount if the board determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the California Used Oil Recycling Fund.

This bill would revise the conditions applicable to used lubricating oil that must be met before the board is required to pay the recycling incentive, and would delete the requirement that the board pay the recycling incentive to an electric utility for certain used lubricating oil.

The bill additionally would require the board on and after January 1, 2014, to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, on or before January 2012, to consider whether to implement additional incentives that prioritize the highest and most beneficial uses of used lubricating oil.

The bill would require the board to increase the recycling incentive to not less than \$0.10 per quart and, on and after January 1, 2014, to set the rerefining incentive at \$0.02 per gallon, and would authorize the board to increase those amounts as specified if it determines that a higher amount is necessary to promote the collection and recycling

of used lubricating oil or the rerefining of used lubricating oil, as applicable, and sufficient funds are available in the California Used Oil Recycling Fund.

(4) The act requires the board to deposit the charges described in (2) above, civil penalties and fines paid pursuant to the act, and all other revenues received pursuant to the act, in the California Used Oil Recycling Fund, part of which is continuously appropriated to the board to pay recycling incentives, to provide a reserve for contingencies, to make specified payments for implementation of certain local used oil collection programs in a total amount equal to \$10,000,000 or one-half the amount remaining in the fund after specified expenditures are made, for certain grants and loans, and for reimbursement for certain disposal costs of contaminated used oil. The act authorizes money in the fund, upon appropriation by the Legislature, among other things, to be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, to pay costs associated with implementing and operating the farm and ranch solid waste cleanup and abatement grant program.

This bill would authorize the continuously appropriated moneys in the fund also to be used for rerefining incentives. The bill would increase the amount available for payments for implementation of local used oil collection programs to \$13,000,000 or one-half the amount remaining in the fund after specified expenditures are made, thereby making an appropriation, and would exempt the application and grant award process for these payments from a public meeting requirement, otherwise applicable to programs under the act. The bill would prohibit money in the California Used Oil Recycling Fund attributable to increasing or adjusting the charge on oil manufacturers described in (2) above from being transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.

(5) The act prohibits a used oil collection center from being eligible for the payment of recycling incentives until the board has certified the center and authorizes the board to cancel certification, after a public hearing, upon finding noncompliance with certification requirements. The act requires a center to reapply for certification every 2 years.

This bill instead would require a center to reapply for certification every 4 years and would eliminate the public hearing requirement for cancellation of certification.

(6) Under the act, if the board finds that a shipment of used oil from a certified used oil collection center or a curbside collection program

is contaminated by hazardous material and other specified requirements are met, the board, upon application of the center or program, is required to reimburse the center or program for the additional disposal cost of the used oil, subject to eligibility requirements and payment limitations.

This bill would include uncertified publicly funded used oil collection centers in small rural counties in those entities eligible to receive that reimbursement, and would modify the eligibility requirements and payment limitations.

(7) The act imposes certification requirements for used oil recycling facilities.

This bill would specify certification requirements for out-of-state used oil recycling facilities seeking certification, including requirements to make certain declarations under penalty of perjury. Because this would expand the application of a crime, it would impose a state-mandated local program. The bill would also would impose certification requirements on rerefiners of used oil.

(8) The act imposes reporting requirements on industrial generators of used lubricating oil, used oil collection centers, and curbside collection programs, to be eligible for payment of a recycling incentive.

This bill would revise those reporting requirements.

(9) This bill would make other related changes to the act.

(10) Because a violation of the act is a crime, the bill would impose a state-mandated local program by, among other things, bringing rerefiners of used lubricating oil within the ambit of the act.

(2)

(11) Existing law generally regulates persons who generate, receive, store, transfer, transport, treat, or recycle used oil. A violation of those requirements is a crime.

This bill would generally require used oil to be tested ~~an~~ and analyzed by a laboratory accredited by the State Department of Public Health, to ensure that it meets specified criteria, before a load of used oil is shipped to a transfer facility, recycling facility, or facility located out of the state. The bill would require the testing and analysis to be accomplished by a registered hazardous waste transporter before acceptance at a transfer or recycling facility or shipment out of state, except as otherwise specified. The bill would require the person performing the test to maintain records of the test for at least 3 years and ~~provide that the person is~~ to be subject to audit and verification by the Department of Toxic Substances Control. The bill would require

the registered hazardous waste transporter who is listed as the transporter on the Uniform Hazardous Waste Manifest used to ship used oil out of state to submit a report annually to the department containing information regarding shipment of used oil out of state. *The bill would require the department to inspect transporters annually to verify compliance with these requirements, and to charge the transporter for any costs associated with the inspection.* Because a violation of the used oil requirements would be a crime, the bill would impose a ~~state-mandate~~ *state-mandated* local program.

(3)

(12) 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~~-yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 25250.29 is added to the Health and
 2 Safety Code, to read:
 3 25250.29. (a) Except as provided in paragraph (2) of
 4 subdivision (b) and subdivision (g), before a load of used oil is
 5 shipped to a transfer facility, recycling facility, or facility located
 6 out of the state, the used oil shall be tested and analyzed by a
 7 laboratory accredited by the State Department of Public Health
 8 pursuant to Article 3 (commencing with Section 100825) of
 9 Chapter 4 of Part 1 of Division 101, to ensure that the used oil
 10 meets all of the following characteristics:
 11 (1) A flashpoint above 100 degrees Fahrenheit.
 12 (2) A polychlorinated biphenyls (PCB) concentration of less
 13 than 5 ppm.
 14 (3) A concentration of total halogens of 1000 ppm or less, unless
 15 the presumption in subclause (I) of clause (v) of subparagraph (C)
 16 of paragraph (1) of subdivision (a) of Section 25250.1 has been
 17 rebutted pursuant to subclause (II) of clause (v) of subparagraph
 18 (C) of paragraph (1) of subdivision (a) of Section 25250.1.
 19 (b) The testing and analysis required pursuant to subdivision
 20 (a) shall be accomplished by a registered hazardous waste

1 transporter prior to acceptance at a transfer facility or recycling
2 facility, or shipment out of the state, except the transporter is not
3 required to perform the testing and analysis if the transporter can
4 do either of the following:

5 (1) (A) Demonstrate that testing and analysis has been performed
6 by the generator of the used oil prior to shipment.

7 (B) Subparagraph (A) does not require the generator of the used
8 oil to perform the testing and analysis required by this section.

9 (2) Provide documentation that the testing will be performed
10 by a transfer facility or a recycling facility issued a permit by the
11 department pursuant to this chapter.

12 (c) (1) A transporter shall not require a used oil collection center
13 to test tanks or containers that contain only used lubricating oil or
14 oil filters accepted from the public as a condition of accepting the
15 oil for shipment.

16 (2) A transporter shall not require a generator to test used oil as
17 a condition of accepting that used oil for shipment.

18 (3) This subdivision does not alter a generator's responsibility
19 to comply with regulations adopted by the department that govern
20 the operation of a generator, *and a transporter shall not be required*
21 *to transport untested used oil.*

22 (d) This section does not affect or limit a testing requirement
23 that the department may impose on a used oil transfer facility or
24 used oil recycling facility as a condition of a permit issued by the
25 department, including, but not limited to, a test required pursuant
26 to a facility's waste analysis plan.

27 (e) The person performing a test required by subdivision (a)
28 shall maintain records of tests performed for used oil for at least
29 three years and is subject to audit and verification by the
30 department.

31 (f) The registered hazardous waste transporter who is listed as
32 the transporter on the Uniform Hazardous Waste Manifest used
33 to ship used oil out of state shall submit a report, on or before
34 March 1 of each year, to the department, containing all of the
35 following information for the preceding year:

36 (1) Total volume of used oil shipped out of state.

37 (2) Date of each shipment of used oil out of state.

38 (3) Uniform Hazardous Waste Manifest tracking number used
39 to ship used oil out of the state.

1 (4) Volume of used oil shipped out of state listed on each
2 manifest.

3 (5) Information pertaining to the out-of-state facility to which
4 the used oil was shipped, including the facility name, facility
5 address, and facility EPA ID number.

6 (6) Signed certification that all used oil shipped out of the state
7 was analyzed and conformed to the requirements of subdivision
8 (a), including identification of the accredited laboratory utilized
9 to test and analyze the used oil shipment.

10 (7) Any other information that the department may require.

11 (g) (1) This section does not apply to a load for shipment that
12 consists exclusively of used lubricating oil accepted by a used oil
13 collection center from the public, including, but not limited to,
14 used lubricating oil accepted by a publicly funded certified or
15 uncertified used oil collection center located in a small rural county.

16 (2) This section does not require a generator to test used oil for
17 dielectric oil derived from highly refined mineral oil used in oil
18 filled electrical equipment. Nothing in this section exempts that
19 oil from any testing requirement required by any other law.

20 (3) This section does not prohibit the transportation of used oil
21 to a facility located outside the state, or impose liability other than
22 compliance with the requirements of this section upon, or in
23 another way affect the liability of, a generator whose used oil is
24 transported to a facility located outside the state.

25 (h) *The department shall inspect transporters annually to verify*
26 *compliance with this section. The department shall charge the*
27 *transporter for any costs, including indirect costs, associated with*
28 *the inspection.*

29 *SEC. 2. Section 48100 of the Public Resources Code is*
30 *amended to read:*

31 48100. (a) The Legislature hereby finds and declares that
32 illegal disposal of solid waste on property owned by innocent
33 parties is a longstanding problem needing attention and that grants
34 provided under this chapter will support the cleanup of farm and
35 ranch property.

36 (b) The board shall establish a farm and ranch solid waste
37 cleanup and abatement grant program for the purposes of cleaning
38 up and abating the effects of illegally disposed solid waste pursuant
39 to this chapter.

1 (c) (1) The Farm and Ranch Solid Waste Cleanup and
2 Abatement Account is hereby created in the General Fund and
3 may be expended by the board, upon appropriation by the
4 Legislature in the annual Budget Act, for the purposes of this
5 chapter.

6 (2) The following funds shall be deposited into the account:

7 (A) Money appropriated by the Legislature from the Integrated
8 Waste Management Fund or the California Used Oil Recycling
9 Fund to the board for the grant program, or from the California
10 Tire Recycling Management Fund to the board for the purposes
11 set forth in *paragraph (10) of subdivision (j) (b) of Section 42889.*

12 (B) Notwithstanding Section 16475 of the Government Code,
13 any interest earned on the money in the account.

14 (3) The board may expend the money in the account for both
15 of the following purposes:

16 (A) To pay the costs of implementing this chapter, which costs
17 shall not exceed 7 percent of the funds available for the grant
18 program.

19 (B) To make payments for grants authorized by this chapter.

20 (4) Upon authorization by the Legislature in the annual Budget
21 Act, the sum of all funds transferred into the account from other
22 funds or accounts shall not exceed one million dollars (\$1,000,000)
23 annually.

24 ~~(5) Notwithstanding~~ *Except as provided in paragraph (2) of*
25 *subdivision (c) of Section 48653, notwithstanding any other*
26 *provision of law, the grant program shall be funded from the*
27 *following funds:*

28 (A) The Integrated Waste Management Fund.

29 (B) The California Tire Recycling Management Fund, for the
30 purposes set forth in *paragraph (10) of subdivision (j) (b) of*
31 *Section 42889.*

32 (C) The California Used Oil Recycling Fund.

33 (d) For purposes of this chapter, the following definitions shall
34 apply:

35 (1) "Native American tribe" has the same meaning as tribe, as
36 defined in subdivision (b) of Section 44201.

37 (2) "Public entity" means a city, county, or resource
38 conservation district.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 48620.2 is added to the Public Resources Code,
3 to read:

4 48620.2. "Rerefined oil" means a lubricant base stock or oil
5 base that has been derived from used oil and meets all the following
6 criteria:

7 (a) Processed using a series of mechanical or chemical methods,
8 or both, including, but not limited to, vacuum distillation, followed
9 by solvent refining or hydrotreating.

10 (b) Capable of meeting the Physical and Compositional
11 Properties, in addition to the Contaminants and Toxicological
12 Properties, as defined under the American Society for Testing and
13 Materials (ASTM) D6074-99 standard.

14 (c) Processed into a material that has a quality level suitable for
15 use in a finished lubricant.

16 ~~SEC. 3.~~

17 *SEC. 4.* Section 48623 of the Public Resources Code is
18 amended to read:

19 48623. "Used oil hauler" means a hazardous waste transporter
20 registered pursuant to Chapter 6.5 (commencing with Section
21 25100) of Division 20 of the Health and Safety Code who
22 transports used oil to a used oil recycling facility certified pursuant
23 to Article 7 (commencing with Section 48660), to a used oil storage
24 facility, ~~or to a used oil transfer facility, or to an out-of-state~~
25 ~~recycling facility registered with the board pursuant to subdivision~~
26 ~~(b) of Section 48662.~~

27 ~~SEC. 4.~~

28 *SEC. 5.* Section 48624 of the Public Resources Code is
29 amended to read:

30 48624. "Used oil recycling ~~facility~~ facility," for purposes of
31 ~~this chapter, means a facility that produces recycled oil, as defined~~
32 ~~in Section 25250.1 of the Health and Safety Code, and is eligible~~
33 ~~for certification pursuant to is certified pursuant to Section 48662.~~

34 *SEC. 6.* Section 48631 of the Public Resources Code is
35 amended to read:

36 48631. The used oil recycling program shall include, but is not
37 limited to, *all of the following:*

38 (a) A recycling incentive system as described in Article 6
39 (commencing with Section 48650).

40 (b) Grants ~~or loans~~, as specified in Section 48632.

1 (c) Development and implementation of an information and
 2 education program ~~for the promotion of~~ *to promote* alternatives
 3 to the illegal disposal of used oil, *methods to reduce the amounts*
 4 *of used oil generated, and environmentally preferable uses of*
 5 *recycled oil, including the use of rerefined oil in automotive and*
 6 *industrial lubricants.*

7 (d) A reporting, monitoring, and enforcement program to ensure
 8 that all statutes and regulations relating to used oil are properly
 9 carried out.

10 *SEC. 7. Section 48632 of the Public Resources Code is*
 11 *amended to read:*

12 48632. The board may issue grants ~~or loans~~ pursuant to
 13 subdivision (b) of Section 48631 ~~for only the following purposes:~~

14 ~~(a) To~~ *to* local governments, *nonprofit entities, and private*
 15 *entities, for providing collection and recycling opportunities for*
 16 *used lubricating oil collection and filters, which that* are in addition
 17 to those included in the local used oil collection programs adopted
 18 pursuant to Article 10 (commencing with Section 48690). Grants
 19 ~~or loans~~ under this ~~subdivision~~ *section* may also be for those
 20 ~~purposes identified in subdivision (d).~~ *but are not limited to, any*
 21 *of the following:*

22 ~~(b) To nonprofit entities for projects, which may include one~~
 23 ~~or more of the following programs or activities:~~

24 (1)
 25 (a) Establishing used lubricating oil collection ~~centers~~
 26 *infrastructure and sustaining used oil collection opportunities.*

27 (2) ~~Providing containers and other materials and supplies that~~
 28 ~~the public can utilize in an environmentally sound manner to store~~
 29 ~~used lubricating oil for pickup or return to a used oil collection~~
 30 ~~center.~~

31 (3) ~~Obtaining equipment and establishing procedures to comply~~
 32 ~~with federal, state, and local law regarding the collection, handling,~~
 33 ~~and storage of used oil.~~

34 (4) ~~For the purposes identified in subdivision (d).~~

35 (c) For either or both of the following purposes:

36 (1)
 37 (b) Research, testing, and demonstration projects for collection
 38 technologies and ~~to develop uses for products resulting from the~~
 39 ~~recycling of used oil~~ *other new and innovative projects in used oil*
 40 *management.*

1 ~~(2) The purposes identified in subdivision (d).~~

2 ~~(c) Developing uses for products resulting from the recycling~~
3 ~~of used oil.~~

4 ~~(d) (1) For education~~ Education and mitigation projects relating
5 to stormwater pollution from used oil and oil byproducts, including,
6 but not limited to, use of storm drain inlet filter devices.

7 ~~(2) A local government shall not receive a grant or loan pursuant~~
8 ~~to this section for any purpose identified in paragraph (1) unless~~
9 ~~the local government certifies that it has a stormwater management~~
10 ~~program that is approved by the appropriate California regional~~
11 ~~water quality control board and that the project approved for~~
12 ~~funding under paragraph (1) is consistent with that approved~~
13 ~~stormwater management program.~~

14 ~~(e) Promoting the manufacture of rerefined lubricating oil.~~

15 ~~SEC. 8. Section 48633 of the Public Resources Code is~~
16 ~~repealed.~~

17 ~~48633. The grants to nonprofit organizations and governmental~~
18 ~~entities authorized by subdivisions (a) and (b) of Section 48632~~
19 ~~may include grants to offset operational expenses.~~

20 ~~SEC. 9. Section 48634 of the Public Resources Code is~~
21 ~~repealed.~~

22 ~~48634. In adopting the program required by this article, the~~
23 ~~board shall consider information developed pursuant to the Used~~
24 ~~Oil Collection Demonstration Grant Program Act of 1990 (Chapter~~
25 ~~1.5 (commencing with Section 3475) of Division 3).~~

26 ~~SEC. 10. Section 48645 of the Public Resources Code is~~
27 ~~amended to read:~~

28 ~~48645. Final~~ Except for payments made to local governments
29 pursuant to paragraph (3) of subdivision (a) of Section 48653,
30 final approval of applicant and project eligibility standards, scoring
31 and evaluation processes, and awarding of loans or grants under
32 this chapter shall be made in a public meeting of, and pursuant to
33 a vote of, the board.

34 ~~SEC. 11. Section 48650 of the Public Resources Code is~~
35 ~~amended to read:~~

36 48650. (a) Every oil manufacturer shall pay to the board, on
37 or before the last day of the month following each quarter, an
38 amount equal to ~~four cents (\$0.04)~~ six cents (\$0.06) for every quart,
39 or ~~sixteen cents (\$0.16)~~ twenty-four cents (\$0.24) for every gallon,
40 of lubricating oil sold or transferred in the state, or imported into

1 the state for use in the state in that quarter. For lubricating oil sold
 2 by weight, a weight to volume conversion factor of 7.5 pounds per
 3 gallon shall be used to determine the fee. *Commencing in 2011,*
 4 *the board shall adjust the base rate of the payment annually to*
 5 *reflect increases or decreases in the cost of living during the prior*
 6 *fiscal year, as measured by the California Consumer Price Index*
 7 *issued by the Department of Industrial Relations or a successor*
 8 *agency.* Except as provided in subdivision (b), no payment is
 9 required for oil ~~which~~ *that* meets any of the following:

10 (1) Oil for which a payment has already been made to the board
 11 pursuant to this section.

12 (2) Oil exported or sold for export from the state.

13 (3) Oil sold for use in vessels operated in interstate or foreign
 14 commerce.

15 (4) Oil imported into the state in the engine crankcase,
 16 transmission, gear box, or differential of an automobile, bus, truck,
 17 vessel, plane, train, or heavy equipment or machinery.

18 (5) Bulk oil imported into, transferred in, or sold in the state to
 19 a motor carrier, as defined in Section 408 of the Vehicle Code,
 20 and used in a vehicle designated in subdivisions (a) and (b) of
 21 Section 34500 of the Vehicle Code.

22 (6) The oil otherwise subject to payment pursuant to this
 23 subdivision has a volume of five gallons or less.

24 (7) *Oil sold as a finished lubricant containing 60 percent*
 25 *rerefined base lubricant.*

26 (b) If oil exempted from payment pursuant to subdivision (a)
 27 is subsequently sold or transferred for use, or is used, in this state,
 28 and the use does not qualify for exemption pursuant to subdivision
 29 (a), the entity ~~which~~ *that* sells, transfers, or uses the oil for a
 30 purpose ~~which~~ *that* is not exempt from payment, shall make the
 31 payment specified in subdivision (a).

32 ~~(c) This section shall become operative on January 1, 2000.~~

33 *SEC. 12. Section 48651 of the Public Resources Code is*
 34 *amended to read:*

35 48651. (a) The board shall pay a recycling incentive *pursuant*
 36 *to subdivision (a) of Section 48652* to every industrial generator,
 37 curbside collection program, and certified used oil collection center,
 38 for used lubricating oil collected from the public; or generated by
 39 ~~the certified used oil collection center or the industrial generator,~~

1 and transported by a used oil hauler to the facilities specified in
2 Section 48623; if either of the following conditions apply:

3 (1) The used lubricating oil is transported by a used oil hauler
4 to a used oil storage facility or to a used oil transfer facility that
5 complies with subdivision (b), for the purpose of producing
6 recycled oil.

7 (2) The used lubricating oil is transported by a used oil hauler
8 directly to an in-state used oil recycling facility that is certified
9 pursuant to subdivision (a) of Section 48662, or to an out-of-state
10 used oil recycling facility registered with the board pursuant to
11 subdivision (b) of Section 48662, for the purpose of producing
12 recycled oil.

13 ~~(b) The board shall pay a recycling incentive to an electric~~
14 ~~utility, as defined in Section 25108, for used lubricating oil~~
15 ~~generated and used by the electric utility for electrical generation~~
16 ~~if the electric utility's use of the used lubricating oil meets the~~
17 ~~requirements of subparagraph (C) of paragraph (2) of subdivision~~
18 ~~(d) of Section 25143.2 of the Health and Safety Code and the used~~
19 ~~oil is in compliance with the standards for recycled oil established~~
20 ~~in paragraph (3) of subdivision (a) of Section 25250.1 of the Health~~
21 ~~and Safety Code.~~

22 (e)

23 (b) A person or entity that generates used industrial oil or a used
24 oil storage facility or a used oil transfer facility that accepts used
25 oil pursuant to paragraph (1) of subdivision (a) shall cause that
26 oil to be transported by a used oil hauler to a certified used oil
27 recycling facility certified pursuant to subdivision (a) of Section
28 48662 or to an out-of-state used oil recycling facility registered
29 with the Environmental Protection Agency and operating in
30 substantial compliance with applicable regulatory standards of the
31 state in which the recycling facility is located registered with the
32 board pursuant to subdivision (b) of Section 48662.

33 SEC. 13. Section 48651.5 is added to the Public Resources
34 Code, to read:

35 48651.5. (a) The board, with regard to promoting the recycling
36 of used lubricating oil into rerefined oil, shall pay a rerefining
37 incentive pursuant to subdivision (b) of Section 48652 if all of the
38 following conditions are met:

39 (1) The facility is an in-state or out-of-state recycling facility
40 that is certified in accordance with subdivision (c) of Section 48662

1 *and produces rerefined base lubricant meeting the specifications*
2 *of rerefined oil as defined in Section 48620.2.*

3 (2) *The used oil was generated and collected within the state*
4 *and prior to treatment or processing has been tested to meet the*
5 *definition of used oil as specified in paragraph (1) of subdivision*
6 *(a) of Section 25250.1 of the Health and Safety Code.*

7 (3) *The facility submits to the board a completed used oil*
8 *rerefining incentive payment claim in the form and manner that*
9 *the board may prescribe.*

10 (b) *To further promote the safe management of used oil, the*
11 *board, using existing financial resources, shall identify and*
12 *evaluate the most environmentally beneficial uses of used*
13 *lubricating oil. On or before January 2012, the board shall*
14 *consider whether to implement additional incentives pursuant to*
15 *this section that prioritize the highest and most beneficial uses of*
16 *used lubricating oil.*

17 *SEC. 14. Section 48652 of the Public Resources Code is*
18 *amended to read:*

19 48652. (a) *The board shall set the recycling incentive amount*
20 *at not less than ~~four cents (\$0.04)~~ ten cents (\$0.10) per quart. The*
21 *amount board may be set the amount at an amount higher than*
22 *four cents (\$0.04) ten cents (\$0.10) if the board determines that a*
23 *higher amount is necessary to promote the collection and recycling*
24 *of used lubricating oil and sufficient funds are available in the*
25 *fund. ~~The board shall not change the amount of the recycling~~*
26 *incentive until at least one year has passed since the amount was*
27 *last set. ~~The board shall continue providing recycling incentives~~*
28 *to certified used oil collection centers at the previous rate for one*
29 *month after setting the recycling incentive at a different rate. ~~The~~*
30 *board shall not raise the recycling incentive amount unless it finds*
31 *that the raise will not adversely affect funding required pursuant*
32 *to Sections 48631, 48653, and 48660.5.*

33 (b) *On and after January 1, 2014, the board shall set the*
34 *rerefining incentive at two cents (\$0.02) per gallon. On and after*
35 *January 1, 2015, the board may set the amount at an amount higher*
36 *than two cents (\$0.02) per gallon if the board determines that a*
37 *higher amount is necessary to promote rerefining of used*
38 *lubricating oil and sufficient funds are available in the fund.*

39 (c) *The board shall not change the amount of an incentive paid*
40 *pursuant to this section until at least one year has passed since*

1 *the amount was last set. The amount of an incentive paid by the*
 2 *board shall remain at the previous amount for one month after*
 3 *setting the incentive at a different amount. The board shall not*
 4 *raise the amount of an incentive paid or implement other incentive*
 5 *options pursuant to subdivision (b) of Section 48651.5 unless it*
 6 *finds that the increase will not adversely affect funding required*
 7 *pursuant to Sections 48631, 48653, and 48660.5.*

8 *SEC. 15. Section 48653 of the Public Resources Code is*
 9 *amended to read:*

10 48653. The board shall deposit all amounts paid pursuant to
 11 Section 48650 by manufacturers, civil penalties, ~~or~~ *and* fines paid
 12 pursuant to this chapter, and all other revenues received pursuant
 13 to this chapter into the California Used Oil Recycling Fund, which
 14 is hereby created in the State Treasury. Notwithstanding Section
 15 13340 of the Government Code, the money in the fund is to be
 16 appropriated solely as follows:

17 (a) Continuously appropriated to the board for expenditure for
 18 the following purposes:

- 19 (1) To pay recycling incentives pursuant to Section 48651.
- 20 (2) To provide a reserve for contingencies, as may be available
 21 after making other payments required by this section, in an amount
 22 not to exceed one million dollars (\$1,000,000).
- 23 (3) To make ~~block grants~~ *payments* for the implementation of
 24 local used oil collection programs adopted pursuant to Article 10
 25 (commencing with Section 48690) to cities, based on the city's
 26 population, and counties, based on the population of the
 27 unincorporated area of the county, in a total annual amount equal
 28 to ~~ten~~ *thirteen* million dollars ~~(\$10,000,000)~~ *(\$13,000,000)* or half
 29 of the amount ~~which~~ *that* remains in the fund after the expenditures
 30 are made pursuant to paragraphs (1) ~~to (3), inclusive,~~ *and* (2) and
 31 subdivision (b), whichever amount is greater, multiplied by the
 32 fraction equal to the population of cities and counties ~~which~~ *that*
 33 are eligible for ~~block grants~~ *payments* pursuant to Section 48690,
 34 divided by the population of the state. The board shall use the latest
 35 population estimates of the state generated by the Population
 36 Research Unit of the Department of Finance in making the
 37 calculations required by this paragraph.
- 38 (4) To implement Section 48660.5 in an amount not to exceed
 39 two hundred thousand dollars (\$200,000) annually.

1 (5) (A) To implement subdivisions (b) and (c) of Section 48631
2 and Section 48632.

3 (B) Grants pursuant to subdivision (b) of Section 48631 and
4 Section 48632 shall be offered each fiscal year that commences
5 in an odd-numbered year.

6 (C) The allocation of funds to implement subdivisions (b) and
7 (c) of Section 48631 and Section 48632 shall be at the discretion
8 of the board to be determined in a public meeting, and pursuant
9 to a vote, of the board.

10 (4)

11 (6) For expenditures pursuant to Section 48656.

12 (b) The money in the fund may be expended by the board for
13 the administration of this chapter and by the department for
14 inspections and reports pursuant to Section 48661, only upon
15 appropriation by the Legislature in the annual Budget Act.

16 (c) ~~The (1)~~ Except as provided in paragraph (2), the money in
17 the fund may be transferred to the Farm and Ranch Solid Waste
18 Cleanup and Abatement Account in the General Fund, upon
19 appropriation by the Legislature in the annual Budget Act, to pay
20 the costs associated with implementing and operating the Farm
21 and Ranch Solid Waste Cleanup and Abatement Grant Program
22 established pursuant to Chapter 2.5 (commencing with Section
23 48100).

24 (2) The money in the fund attributable to a charge increase or
25 adjustment made or authorized by amendment of subdivision (a)
26 of Section 48650 by the act adding this paragraph shall not be
27 transferred to the Farm and Ranch Solid Waste Cleanup and
28 Abatement Account.

29 ~~(d) Appropriations to the board to pay the costs necessary to~~
30 ~~administer this chapter, including implementation of the reporting,~~
31 ~~monitoring, and enforcement program pursuant to subdivision (d)~~
32 ~~of Section 48631, shall not exceed three million dollars~~
33 ~~(\$3,000,000) annually.~~

34 (e)

35 (d) The Legislature hereby finds and declares its intent that the
36 sum of ~~two three~~ three hundred fifty thousand dollars ~~(\$250,000)~~
37 (\$350,000) should be annually appropriated from the California
38 Used Oil Recycling Fund in the annual Budget Act to the board,
39 commencing with fiscal year ~~1996-97~~ 2010-11, for the purposes
40 of Section 48655 and to conduct those investigations and

1 *enforcement actions necessary to implement subdivision (b) of*
2 *Section 48651.*

3 *SEC. 16. Section 48656 of the Public Resources Code is*
4 *amended to read:*

5 48656. After all of the expenditures pursuant to Section 48653
6 have been made, notwithstanding paragraph ~~(4)~~ (6) of subdivision
7 (a) of Section 48653, the balance remaining in the fund shall be
8 available to the board for expenditure solely for the implementation
9 of subdivisions (b) and (c) of Section 48631 and Sections 48632
10 and 48660.5. The board shall not expend more than two hundred
11 thousand dollars (\$200,000) to implement Section 48660.5 and at
12 least 40 percent of the money remaining in the fund shall be
13 expended for the purposes of subdivision (a) of Section 48632, at
14 least 10 percent shall be expended for the purposes of subdivision
15 (b) of Section 48632, at least 20 percent shall be expended for the
16 purposes of subdivision (c) of Section 48631, and at least 10, but
17 not more than 15, percent shall be expended for the purposes of
18 subdivision (e) of Section 48632 for incentives pursuant to Section
19 48651.5.

20 *SEC. 17. Section 48660 of the Public Resources Code is*
21 *amended to read:*

22 48660. (a) No used oil collection center shall be eligible for
23 the payment of recycling incentives until the board has certified
24 that the center is in compliance with the requirements specified in
25 subdivision (b). Before certification, the board may require the
26 center to submit any information that the board determines is
27 necessary to find that the center is in compliance with those
28 requirements. A center shall reapply for certification every two
29 *four* years. The board may cancel the certification of a center if
30 the board finds, ~~after a public hearing,~~ that the center is not, or has
31 not been, in compliance with subdivision (b). The board may
32 withhold the payment of recycling incentives for used lubricating
33 oil collected by a center if the board finds that the center was not
34 in compliance with subdivision (b) during the time in which the
35 used lubricating oil was collected.

36 (b) To be eligible for certification by the board and for the
37 payment of recycling incentives, the used oil collection center shall
38 do all of the following:

1 (1) (A) Accept used lubricating oil from the public at no charge
2 during the hours between 8 a.m. and 8 p.m. that the entity operating
3 as the center is open for business.

4 (B) The board may approve alternative hours for the acceptance
5 of used lubricating oil by an individual center if either of the
6 following conditions is met:

7 (i) The center accepts used lubricating oil for 12 continuous
8 hours daily.

9 (ii) The center demonstrates that compliance with Section 279.31
10 of Title 40 of the Code of Federal Regulations prevents the center
11 from complying with subparagraph (A).

12 (2) Pay to ~~any~~ a person, *upon the person's request*, an amount
13 equal to the recycling incentive ~~which~~ that the center will receive
14 for used lubricating oil brought to the center in containers by the
15 person. Nothing in this chapter prohibits ~~any~~ a person from
16 donating used lubricating oil to a center. ~~With the exception of~~
17 ~~centers that generate used lubricating oil by servicing motor~~
18 ~~vehicles, the~~ *The* recycling incentive may be in the form of a credit
19 that may be applied toward the purchase of goods or services
20 offered by the center, as determined by the board. The credit shall
21 be in the form of a voucher or coupon with a value of at least twice
22 the incentive amount to be paid pursuant to Section 48652 and
23 have no other limits for use, unless prescribed by the board.

24 (3) Provide information to the board for informing the public
25 of the center's acceptance of used lubricating oil.

26 (4) Provide notice to the public, through onsite signs and
27 periodic advertising in local media, of the center's acceptance of
28 used lubricating oil from the public.

29 (A) Onsite signs shall be of a design prescribed by the board
30 and exterior signs shall be posted in a location that is easily visible
31 from a public street.

32 (B) A certified center shall post a combined symbolic and
33 information exterior sign of at least two feet by three feet in size,
34 or shall post an exterior symbolic sign of at least two feet by 18
35 inches in size. If the exterior symbolic sign is posted, the combined
36 symbolic and informational sign shall be concurrently posted so
37 that it is easily readable from the location where the used oil is
38 received from the public. The exterior symbolic sign shall include
39 the following words in a manner specified by the board: "Used
40 Oil Collection Center."

1 ~~(C) The informational portion of the combined signs shall~~
 2 ~~include the following words, in a manner specified by the board:~~
 3 ~~“Used Oil Collection Center—Recycling Incentive Paid for Used~~
 4 ~~Lubricating Oil in Containers During Business Hours from~~
 5 ~~Members of the Public Who Change Their Own Oil.”~~

6 ~~(D)~~
 7 (C) A center that does not accept used lubricating oil from the
 8 public during all of its business hours, but meets the requirements
 9 of paragraph (1), shall indicate on the exterior sign the hours when
 10 that used oil is accepted at no charge from the public and these
 11 hours shall be posted instead of the business hours.

12 ~~(E)~~
 13 (D) If local zoning ordinances prevent signs of a size consistent
 14 with this paragraph, the exterior symbolic sign shall be of the
 15 maximum allowable size.

16 (c) Notwithstanding subdivision (b), a used oil collection center
 17 may refuse to accept used lubricating oil ~~which~~ *that* has been
 18 contaminated in a manner other than that which would occur
 19 through normal use.

20 (d) Notwithstanding subdivision (b), ~~no~~ a used oil collection
 21 center shall *not* knowingly accept used lubricating oil for which a
 22 payment has not been made pursuant to Section 48650.

23 *SEC. 18. Section 48660.5 of the Public Resources Code is*
 24 *amended to read:*

25 48660.5. (a) If the board finds that a shipment of used oil from
 26 a certified used oil collection center ~~or~~, a curbside collection
 27 program, *or an uncertified publicly funded used oil collection*
 28 *center in a small rural county* is contaminated by hazardous
 29 materials in excess of that which generally occurs in normal use,
 30 which renders the used oil infeasible for recycling, and requires
 31 that the used oil be destroyed at a substantially higher cost than
 32 the cost generally to recycle used oil, the board shall, upon
 33 application by the used oil collection center or curbside collection
 34 program, reimburse the center or program for the additional
 35 disposal cost, subject to the eligibility requirements of subdivision
 36 (b), except as provided in subdivision (c).

37 (b) A certified used oil collection center ~~or~~, curbside collection
 38 program, *or uncertified publicly funded used oil collection center*
 39 *in a small rural county* is eligible for reimbursement only if it
 40 demonstrates to the satisfaction of the board all of the following,

1 *except that paragraph (1) does not apply to a publicly funded used*
2 *oil collection center in a small rural county:*

3 (1) The center or program has established procedures to ensure
4 that the used oil it generates and accepts from the public will not
5 be mixed with other hazardous wastes, especially halogenated *and*
6 *polychlorinated biphenyl-contaminated* wastes. These procedures
7 shall include, but not be limited to, instructing the public and
8 employees that used oil shall not be mixed with other hazardous
9 waste. The board shall not require a center or program to test used
10 oil received from the public as part of these procedures.

11 (2) The shipment contains not more than five gallons or pounds
12 of contaminants combined, based on the contaminant
13 concentrations and the total volume or weight of the shipment.

14 (c) In ~~any~~ a calendar year, a used oil collection center ~~or,~~
15 curbside collection program, *or uncertified publicly funded used*
16 *oil collection center in a small rural county* shall be reimbursed
17 for not more than one shipment and for not more than five thousand
18 dollars (\$5,000) in disposal costs *for halogen-contaminated waste*
19 *or not more than the actual net additional costs of disposing of*
20 *polychlorinated biphenyl-contaminated wastes*, subject to the
21 availability of funds pursuant to Section 48656.

22 *SEC. 19. Section 48661 of the Public Resources Code is*
23 *amended to read:*

24 48661. (a) ~~On and after July 1, 1992, the~~ *The* department shall
25 annually inspect used oil recycling facilities *located in this state.*

26 (b) Within 135 days following inspection, the department shall
27 submit a report to the board, describing all of the following:

28 (1) Any violations of Chapter 6.5 (commencing with Section
29 25100) of Division 20 of the Health and Safety Code.

30 (2) Any corrective actions ordered or agreed to by the
31 department.

32 (3) Progress by the facility in correcting violations identified in
33 previous inspections.

34 (c) In the report required by subdivision (b), the department
35 shall specifically state whether any of the following occurred:

36 (1) The department has identified violations of subdivision (c)
37 of Section 25250.1 of the Health and Safety Code regarding
38 achievement of minimum standards of purity for recycled oil.

1 (2) The department has identified violations of regulations
 2 requiring financial responsibility assurance for liability, closure,
 3 and postclosure obligations.

4 (3) Where prior contamination has been identified, the facility
 5 has an approved corrective action plan and has not been found to
 6 be in violation of its requirements.

7 (4) The department has identified violations that meet the criteria
 8 for class 1 violations, as defined in Section 66260.10 of Title 22
 9 of the California Code of Regulations.

10 ~~SEC. 5.~~

11 *SEC. 20.* Section 48662 of the Public Resources Code is
 12 amended to read:

13 48662. (a) The board shall certify or recertify a used oil
 14 recycling facility ~~that meets either of the following requirements:~~
 15 *located in this state and for which the board has received a report*
 16 *from the department pursuant to Section 48661, unless the board*
 17 *determines that the facility is engaged in a repeating or recurring*
 18 *pattern of noncompliance that poses a significant threat to public*
 19 *health and safety or the environment.*

20 (b) *The board shall certify or recertify an out-of-state recycling*
 21 *facility that receives used oil from a California generator to which*
 22 *a recycling incentive may be paid if both of the following*
 23 *requirements are met:*

24 (1) *The out-of-state used oil recycling facility registers with the*
 25 *board and declares, under penalty of perjury, that it is operating*
 26 *in substantial compliance with Part 279 (commencing with Section*
 27 *279.1) of Title 40 of the Code of Federal Regulations. An*
 28 *out-of-state recycling facility registering with the board pursuant*
 29 *to this subdivision shall, upon request, provide the board or the*
 30 *department with a copy of any inspection report issued for the*
 31 *facility by, or any other enforcement related documents available*
 32 *to, the agency responsible for enforcing Part 279 (commencing*
 33 *with Section 279.1) of Title 40 of the Code of Federal Regulations*
 34 *at the facility.*

35 (2) *The out-of-state used oil recycling facility declares, under*
 36 *penalty of perjury, to the board that used oil that it receives from*
 37 *a California generator to whom a recycling incentive may be paid*
 38 *is recycled to meet the purity standards for recycled oil, as defined*
 39 *in Section 48620. An out-of-state recycling facility registering with*
 40 *the board pursuant to this subdivision shall, upon request, provide*

1 *the board or the department with a copy of records demonstrating*
2 *that the used oil has been recycled to meet those purity standards.*

3 *(c) The board shall certify or recertify a rerefiner of used oil*
4 *that meets either of the following requirements:*

5 *(1) The used oil recycling facility located in this state is certified*
6 *pursuant to subdivision (a) and produces rerefined base lubricant*
7 *meeting the specifications for rerefined oil as defined in Section*
8 *48620.2.*

9 *(2) The used oil recycling facility is an out-of-state facility*
10 *certified under subdivision (b) that certifies annually in writing,*
11 *under penalty of perjury, to the board that the facility produces*
12 *rerefined base lubricant meeting the specifications for rerefined*
13 *oil, as defined in Section 48620.2. An out of state recycling facility*
14 *registering with the board pursuant to this subdivision shall, upon*
15 *request, provide the board or the department with a copy of records*
16 *demonstrating that the used oil has been recycled to meet the*
17 *specifications for rerefined oil, as defined in Section 48620.2.*

18 *(d) An out-of-state facility certified pursuant to subdivision (b)*
19 *or (c) shall, upon a request by the board, be subject to audit by*
20 *the department to verify the applicable requirements for*
21 *certification.*

22 *(e) Subdivision (d) does not require the department to inspect*
23 *or prohibit the department from inspecting an out-of-state facility*
24 *to determine whether the department is satisfied that the facility*
25 *substantially meets the requirements for certification.*

26 *(f) As a condition of compliance with and audit performed*
27 *pursuant to subdivision (d), an out-of-state facility shall enter into*
28 *an agreement with the department pursuant to Section 25201.9 of*
29 *the Health and Safety Code to pay the department's full expenses*
30 *of conducting the audit, including any inspection costs the*
31 *department may incur in determining whether the facility meets*
32 *the requirements for certification.*

33 *(g) If the board denies certification to a facility subject to*
34 *subdivision (a), (b), or (c), the board may subsequently certify the*
35 *facility if the board determines that the facility meets the standards*
36 *for certification.*

37 ~~*(1) The used oil recycling facility is located in this state and the*~~
38 ~~*board has received a report from the department pursuant to Section*~~
39 ~~*48661, unless the board determines that the facility is engaged in*~~

1 a repeating or recurring pattern of noncompliance that poses a
2 significant threat to public health and safety or the environment.

3 ~~(2) The used oil recycling facility is an out-of-state facility and
4 the board receives a report from the department that the out-of-state
5 facility has demonstrated to the satisfaction of the department that
6 the facility substantially meets the requirements in Part 279
7 (commencing with Section 279.1) of Title 40 of the Code of
8 Federal Regulations and recycles used lubricating oil to meet the
9 purity standards for recycled oil, as specified in subparagraph (B)
10 of paragraph (3) of subdivision (a) of Section 25250.1 of the Health
11 and Safety Code.~~

12 ~~(b) If the board denies certification to a facility subject to this
13 section, the board may subsequently certify the facility if it
14 determines that the facility meets the standards for certification.~~

15 ~~(c) An out-of-state facility that seeks certification shall annually
16 certify, in writing to the board, under penalty of perjury, that the
17 facility substantially meets the requirements in Part 279
18 (commencing with Section 279.1) of Title 40 of the Code of
19 Federal Regulations.~~

20 ~~(d) Paragraphs (1) and (2) of subdivision (a) do not require the
21 department to inspect or prohibit the department from inspecting
22 an out-of-state facility to determine whether the department is
23 satisfied that the facility substantially meets the requirements in
24 Part 279 (commencing with Section 279.1) of Title 40 of the Code
25 of Federal Regulations and recycles used lubricating oil to meet
26 the purity standards for recycled oil, as specified in subparagraph
27 (B) of paragraph (3) of subdivision (a) of Section 25250.1 of the
28 Health and Safety Code for recycled oil.~~

29 ~~(e) As a condition of demonstrating compliance pursuant to
30 subdivision (a), a facility shall enter into an agreement with the
31 department pursuant to Section 25201.9 of the Health and Safety
32 Code to pay the department's full expenses for conducting the
33 review and any inspection costs the department may incur in
34 determining whether the facility substantially meets the
35 requirements in Part 279 (commencing with Section 279.1) of Title
36 40 of the Code of Federal Regulations and whether the facility
37 recycles used oil to meet the purity standards for recycled oil, as
38 specified in subparagraph (B) of paragraph (3) of subdivision (a)
39 of Section 25250.1 of the Health and Safety Code.~~

1 *SEC. 21. Section 48670 of the Public Resources Code is*
2 *amended to read:*

3 48670. (a) To be eligible for payment of a recycling incentive,
4 an industrial generator of used lubricating oil, a used oil collection
5 center, or a curbside collection program shall report to the board,
6 for each quarter, ~~the both of the following:~~

7 (1) ~~The amount of lubricating oil purchased and the amount of~~
8 ~~used lubricating oil that is transported to a certified used oil~~
9 ~~recycling facility, or to a used oil storage facility, or to a used oil~~
10 ~~transfer facility, or that is transported to an out-of-state recycling~~
11 ~~facility registered with the Environmental Protection Agency and~~
12 ~~permitted to operate by the applicable regulatory agency of the~~
13 ~~state in which the facility is located, or that is used to generate~~
14 ~~electricity pursuant to subdivision (b) of Section 48651. The~~
15 ~~registered with the board pursuant to subdivision (b) of Section~~
16 ~~48662.~~

17 (2) *The amount of used lubricating oil collected from the public,*
18 *for use in determining the recycling incentive payment, that is*
19 *transported to a certified used oil recycling facility, to a used oil*
20 *storage facility, or to a used oil transfer facility, or that is*
21 *transported to an out-of-state recycling facility registered with the*
22 *board pursuant to subdivision (b) of Section 48662. However, a*
23 *certified collection center with service bays located in a small*
24 *rural county shall be eligible for a recycling incentive based on*
25 *60 percent of the total oil recycled by collecting used oil from the*
26 *public and servicing motor vehicles. If the center documents, in*
27 *the form prescribed by the board, that the portion that resulted*
28 *from public collection exceeds 60 percent of the total oil recycled,*
29 *the center shall be eligible for the incentive payment based on the*
30 *actual amount of used oil accepted from the public and recycled.*

31 (b) (1) *The reports shall be submitted on or before the 45th day*
32 *following each quarter, in the form and manner which that the*
33 *board may prescribe, and shall include copies of manifests or*
34 *modified manifest receipts from used oil haulers. The*

35 (2) *The copies of manifests or modified manifest receipts*
36 *required by paragraph (1) shall be signed by the generator of the*
37 *used oil and shall specify the receiving used oil facility.*

38 (3) *If the used oil was shipped to a facility located out of the*
39 *state, the report also shall include testing and analysis data*
40 *provided by the receiving facility documenting compliance with*

1 *subdivision (a) of Section 25250.29 of the Health and Safety Code*
 2 *and that the used oil was recycled to meet the purity standards for*
 3 *recycled oil as defined in Section 48620.*

4 (c) *The board may delegate to the executive officer of the board*
 5 *the authority to accept reports submitted after the 45th day and to*
 6 *reduce, eliminate, or approve the amount of incentive fee to be*
 7 *paid due to the late submission of the report. The board may*
 8 *provide, by regulation, for a longer reporting period for industrial*
 9 *generators that generate less than 1,000 gallons of used oil*
 10 *annually.*

11 ~~SEC. 6:~~

12 *SEC. 22. Section 48673 of the Public Resources Code is*
 13 *amended to read:*

14 ~~48673. (a) On and after January 1, 2010, a used oil recycling~~
 15 ~~facility issued a permit by the department to produce recycled oil,~~
 16 ~~as defined in Section 25250.1 of the Health and Safety Code, and~~
 17 ~~an out-of-state used oil recycling facility that is certified by the~~
 18 ~~board pursuant to Section 48662, shall report to the board for each~~
 19 ~~quarter the amount of used oil received and the amount of recycled~~
 20 ~~oil produced.~~

21 *48673. (a) A used oil recycling facility registered with the*
 22 *board pursuant to Section 48662 shall report to the board for each*
 23 *quarter the amount of California used oil recycled and the resultant*
 24 *amount of recycled oil produced to meet the purity standards for*
 25 *recycled oil, as defined in Section 48620.*

26 (b) *A facility subject to this section shall provide estimates,*
 27 *where feasible, of the amount that is used lubricating oil and the*
 28 *amount that is used industrial oil.*

29 (c) *The reports required by this section shall be submitted on*
 30 *or before the last day of the month following each quarter, in the*
 31 *form and manner that the board may prescribe.*

32 *SEC. 23. Section 48674 of the Public Resources Code is*
 33 *amended to read:*

34 ~~48674. After receiving a block grant payments pursuant to~~
 35 ~~paragraph (4) (3) of subdivision (a) of Section 48653, each local~~
 36 ~~government shall submit an annual a report to the board, on or~~
 37 ~~before the date in the manner specified by the board, which that~~
 38 ~~includes any amendments to the local used oil collection program~~
 39 ~~adopted pursuant to Section 48690, a description of all measures~~

1 taken to implement the program, and a description of how the
2 ~~block grant was~~ *payments were* expended.

3 *SEC. 24. Section 48690 of the Public Resources Code is*
4 *amended to read:*

5 48690. A local government is eligible for a ~~block grant~~ *payment*
6 pursuant to paragraph (3) of subdivision (a) of Section 48653, if
7 it develops and submits a local used oil collection program to the
8 board pursuant to Section 48691 and files a report pursuant to
9 Section 48674. The board shall make a ~~grant~~ *payment* to every
10 local government that submits a program and files a report unless
11 the board finds that the program or its implementation does not
12 comply with criteria contained in this article. The board may make
13 a ~~block grant~~ *payment* to another entity that will implement the
14 program of a local government in lieu of making a ~~block grant~~
15 *payment* to that local government with the concurrence of that
16 local government. *If a local government does not implement a used*
17 *oil collection program and chooses not to accept the payment*
18 *pursuant to paragraph (3) of subdivision (a) of Section 48653, the*
19 *board may allocate that local government's payment to another*
20 *local government that commits to implementing a used oil*
21 *collection program pursuant to Section 48691 and serving the*
22 *residents of the nonparticipating local government.*

23 *SEC. 25. Section 48691 of the Public Resources Code is*
24 *amended to read:*

25 48691. (a) A local used oil collection program shall provide
26 for used lubricating oil collection by either of the following or a
27 combination of the two:

28 (1) Ensuring that at least one certified used oil collection center
29 is available for every 100,000 residents not served by curbside
30 used oil collection, ~~which~~ *that* accepts oil from the public at no
31 charge, at least 20 hours each week, on four days each week, of
32 which three hours each week are outside the weekday hours of 8
33 a.m. through 5:30 p.m.

34 (2) Providing used oil curbside collection at least once a month.

35 (b) A local used oil collection program shall include a public
36 education program ~~which shall inform~~ *that informs* the public of
37 locally available used oil recycling opportunities.

38 (c) A local government may implement its used oil collection
39 program in conjunction with other similar programs in order to
40 improve used oil recycling efficiency.

1 (d) (1) A local government that has implemented the used oil
2 collection and education elements of subdivisions (a) and (b) may
3 also include, in the local used oil collection program, provisions
4 for the mitigation and the collection of oil and oil byproducts,
5 including other solid waste that may be mixed with oil or oil
6 byproducts from ~~storm water~~ *stormwater* runoff, including devices
7 to capture that ~~storm water~~ *stormwater* runoff, such as the use of
8 storm drain inlet filter devices.

9 (2) A local government shall not receive a ~~block grant~~ *payment*
10 pursuant to Section 48690 for the purposes identified pursuant to
11 paragraph (1) unless the local government certifies that it has a
12 ~~storm water~~ *stormwater* management program that is approved by
13 the appropriate California regional water quality control board and
14 that the provisions in the local used oil collection program approved
15 for funding under paragraph (1) are consistent with that approved
16 ~~storm water~~ *stormwater* management program.

17 ~~SEC. 7.~~

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

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AMENDED IN ASSEMBLY MAY 11, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 907

Introduced by Assembly Member Chesbro

February 26, 2009

An act to amend Sections 48100, 48623, 48631, 48632, 48645, 48650, 48651, 48652, 48653, 48656, 48660, 48660.5, 48662, 48670, 48673, 48674, 48690, and 48691 of, to add Sections 48620.2 and 48651.5 to, and to repeal Sections 48633 and 48634 of, the Public Resources Code, relating to oil, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 907, as amended, Chesbro. California Oil Recycling Enhancement Act: rerefined oil.

(1) The California Oil Recycling Enhancement Act, administered by the California Integrated Waste Management Board, among other things, defines terms and establishes the used oil recycling program, consisting of a recycling incentive system, grants or loans to local governments and nonprofit entities for specified purposes related to used lubricating oil collection and recycling and stormwater pollution from used oil and oil byproducts, development and implementation of an information and education program to promote alternatives to the illegal disposal of used oil, and a reporting, monitoring, and enforcement program to ensure that laws relating to used oil are properly carried out. A violation of the act is a crime.

This bill would define the term “rerefined oil” and revise the definition of “used oil hauler” for purposes of the act, and would revise and recast the used oil recycling program, so that, among other things, it would no longer provide for loans, and it would provide for the development and implementation of an information and education program to promote methods to reduce the amounts of used oil generated and to promote the use of rerefined oil in automotive and industrial lubricants. The bill would revise the purposes for which grants under the program may be made and would authorize grants additionally to be made to private entities.

(2) The act generally requires every oil manufacturer to pay to the board an amount equal to \$0.04 for every quart, or \$0.16 for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state.

This bill would increase those amounts to \$0.06 per quart and \$0.24 per gallon, would authorize the board to adjust the fee annually, as specified, and would exempt from the payment of the fee oil sold as finished lubricant containing 100% rerefined base lubricant.

(3) The act requires the board to pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil if certain conditions apply, and to an electric utility, as defined, for certain used lubricating oil. Existing law requires the board to set the recycling incentive amount at not less than \$0.04 per quart, and authorizes the board to set the amount at a higher amount if the board determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the California Used Oil Recycling Fund.

This bill would revise the conditions applicable to used lubricating oil that must be met before the board is required to pay the recycling incentive, and would delete the requirement that the board pay the recycling incentive to an electric utility for certain used lubricating oil.

The bill additionally would require the board to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, on or before January 1, 2012, to consider whether to implement additional incentives that prioritize the highest and most beneficial uses of used lubricating oil.

The bill would require the board to increase the recycling incentive to not less than \$0.10 per quart and to set the rerefining incentive at not less than \$0.02 per quart, and would authorize the board to increase

those amounts if it determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil or the rerefining of used lubricating oil, as applicable, and sufficient funds are available in the California Used Oil Recycling Fund.

(4) The act requires the board to deposit the charges described in (2) above, civil penalties and fines paid pursuant to the act, and all other revenues received pursuant to the act, in the California Used Oil Recycling Fund, part of which is continuously appropriated to the board to pay recycling incentives, to provide a reserve for contingencies, to make specified payments for implementation of certain local used oil collection programs in a total amount equal to \$10,000,000 or one-half the amount remaining in the fund after specified expenditures are made, for certain grants and loans, and for reimbursement for certain disposal costs of contaminated used oil. The act authorizes money in the fund, upon appropriation by the Legislature, among other things, to be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, to pay costs associated with implementing and operating the farm and ranch solid waste cleanup and abatement grant program.

This bill would increase the amount available for payments for implementation of local used oil collection programs to \$13,000,000, thereby making an appropriation. The bill would prohibit money in the California Used Oil Recycling Fund attributable to increasing or adjusting the charge on oil manufacturers described in (2) above from being transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.

(5) The act prohibits a used oil collection center from being eligible for the payment of recycling incentives until the board has certified the center. Certification eligibility includes compliance with public notice and operational requirements. The act requires a center to reapply for certification every 2 years.

This bill instead would require a center to reapply for certification every 4 years and would revise the certification eligibility requirements.

(6) Under the act, if the board finds that a shipment of used oil from a certified used oil collection center or a curbside collection program is contaminated by hazardous material and other specified requirements are met, the board, upon application of the center or program, is required to reimburse the center or program for the additional disposal cost of the used oil, subject to eligibility requirements and payment limitations.

This bill would include uncertified publicly funded used oil collection centers in small rural counties in those entities eligible to receive that reimbursement, and would modify the eligibility requirements and payment limitations.

(7) The act imposes certification requirements for used oil recycling facilities.

This bill also would impose certification requirements on rerefiners of used oil. The bill would require certain out-of-state recycling facilities to make specified certifications of compliance with certain federal and state laws, thereby imposing a state-mandated local program, by creating a new crime.

(8) The act imposes reporting requirements on industrial generators of used lubricating oil, used oil collection centers, and curbside collection programs, to be eligible for payment of a recycling incentive.

This bill would revise those reporting requirements.

(9) This bill would make other related changes to the act.

(10) Because a violation of the act is a crime, the bill would impose a state-mandated local program by, among other things, bringing rerefiners of used lubricating oil within the ambit of the act.

(11) 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: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 48100 of the Public Resources Code is
2 amended to read:

3 48100. (a) The Legislature hereby finds and declares that
4 illegal disposal of solid waste on property owned by innocent
5 parties is a longstanding problem needing attention and that grants
6 provided under this chapter will support the cleanup of farm and
7 ranch property.

8 (b) The board shall establish a farm and ranch solid waste
9 cleanup and abatement grant program for the purposes of cleaning
10 up and abating the effects of illegally disposed solid waste pursuant
11 to this chapter.

1 (c) (1) The Farm and Ranch Solid Waste Cleanup and
2 Abatement Account is hereby created in the General Fund and
3 may be expended by the board, upon appropriation by the
4 Legislature in the annual Budget Act, for the purposes of this
5 chapter.

6 (2) The following funds shall be deposited into the account:

7 (A) Money appropriated by the Legislature from the Integrated
8 Waste Management Fund or the California Used Oil Recycling
9 Fund to the board for the grant program, or from the California
10 Tire Recycling Management Fund to the board for the purposes
11 set forth in *paragraph (10) of subdivision (j) (b) of Section 42889.*

12 (B) Notwithstanding Section 16475 of the Government Code,
13 any interest earned on the money in the account.

14 (3) The board may expend the money in the account for both
15 of the following purposes:

16 (A) To pay the costs of implementing this chapter, which costs
17 shall not exceed 7 percent of the funds available for the grant
18 program.

19 (B) To make payments for grants authorized by this chapter.

20 (4) Upon authorization by the Legislature in the annual Budget
21 Act, the sum of all funds transferred into the account from other
22 funds or accounts shall not exceed one million dollars (\$1,000,000)
23 annually.

24 (5) ~~Notwithstanding~~ *Except as provided in paragraph (2) of*
25 *subdivision (c) of Section 48653 and notwithstanding any other*
26 *provision of law, the grant program shall be funded from the*
27 *following funds:*

28 (A) The Integrated Waste Management Fund.

29 (B) The California Tire Recycling Management Fund, for the
30 purposes set forth in *paragraph (10) of subdivision (j) (b) of*
31 *Section 42889.*

32 (C) The California Used Oil Recycling Fund.

33 (d) For purposes of this chapter, the following definitions shall
34 apply:

35 (1) "Native American tribe" has the same meaning as tribe, as
36 defined in subdivision (b) of Section 44201.

37 (2) "Public entity" means a city, county, or resource
38 conservation district.

1 SECTION 1.

2 SEC. 2. Section 48620.2 is added to the Public Resources Code,
3 to read:

4 48620.2. "Rerefined oil" means a lubricant base stock or oil
5 base that has been derived from used oil and meets all the following
6 criteria:

7 (a) Processed using a series of mechanical or chemical methods,
8 or both, including, but not limited to, vacuum distillation, followed
9 by solvent refining or hydrotreating.

10 (b) Capable of meeting the Physical and Compositional
11 Properties, in addition to the Contaminants and Toxicological
12 Properties, as defined under the American Society for Testing and
13 Materials (ASTM) D6074-99 standard.

14 (c) Processed into a material that has a quality level suitable for
15 use in a finished lubricant.

16 ~~SEC. 2.~~

17 SEC. 3. Section 48623 of the Public Resources Code is
18 amended to read:

19 48623. "Used oil hauler" means a hazardous waste hauler
20 registered pursuant to Chapter 6.5 (commencing with Section
21 25100) of Division 20 of the Health and Safety Code who
22 transports used oil to a used oil recycling facility certified pursuant
23 to Article 7 (commencing with Section 48660), to a used oil storage
24 facility, to a used oil transfer facility, or to an out-of-state recycling
25 facility registered with the board to be operating in substantial
26 compliance with Part 279 (commencing with Section 279.1) of
27 Title 40 of the Code of Federal Regulations.

28 ~~SEC. 3.~~

29 SEC. 4. Section 48631 of the Public Resources Code is
30 amended to read:

31 48631. The used oil recycling program shall include, but is not
32 limited to, all of the following:

33 (a) A recycling incentive system as described in Article 6
34 (commencing with Section 48650).

35 (b) Public and private, including, but not limited to, grants and
36 contracts, between the board and local governments, nonprofit
37 entities, and private entities for the purposes specified in Section
38 48632.

39 (c) Development and implementation of an information and
40 education program to promote safe and proper used oil collection

1 and treatment methods, methods to reduce used oil generation,
2 and advances in new and existing technologies, including, but not
3 limited to, use of rerefined oil in automotive and industrial
4 lubricants.

5 (d) A reporting, monitoring, and enforcement program to ensure
6 that all statutes and regulations relating to used oil are properly
7 carried out.

8 ~~SEC. 4.~~

9 *SEC. 5.* Section 48632 of the Public Resources Code is
10 amended to read:

11 48632. The board may, pursuant to subdivision (b) of Section
12 48631, issue grants to or contract with local governments, nonprofit
13 entities, and private entities, for any of the following purposes:

14 (a) Providing and maintaining collection and recycling
15 opportunities for used lubricating oil and filters that are in addition
16 to those included in the local used oil collection programs adopted
17 pursuant to Article 10 (commencing with Section 48690).

18 (b) Research, testing, and demonstration projects for in-service
19 uses, collection technologies, and end-of-life used oil management.

20 (c) Developing uses and markets for low environmental impact
21 products resulting from the recycling of used oil, including, but
22 not limited to, promoting the manufacture of rerefined lubricating
23 oil.

24 (d) Product advancements and developments in lubricating oil
25 resulting from, but not limited to, new requirements or technologies
26 in fuel efficiency and performance, synthetic or biobased lubricants,
27 alternative fuels, and methods to extend lubricating oil life.

28 (e) Education and mitigation projects relating to stormwater
29 pollution and its impacts on receiving waters, soils, and oceans.

30 (f) A local government shall not receive a grant or contract
31 pursuant to this section for any purpose identified in subdivision
32 (e) unless the local government certifies that it has a stormwater
33 management program that is approved by the appropriate California
34 regional water quality control board and that the project approved
35 for funding under subdivision (e) is consistent with that approved
36 stormwater management program.

37 (g) An information and education program pursuant to
38 subdivision (c) of Section 48631.

1 ~~SEC. 5.~~

2 ~~SEC. 6.~~ Section 48633 of the Public Resources Code is
3 repealed.

4 ~~SEC. 6.~~

5 ~~SEC. 7.~~ Section 48634 of the Public Resources Code is
6 repealed.

7 ~~SEC. 7.~~

8 ~~SEC. 8.~~ Section 48645 of the Public Resources Code is
9 amended to read:

10 48645. Except for payments made to local governments
11 pursuant to paragraph (3) of subdivision (a) of Section 48653, final
12 approval of applicant and project eligibility standards, scoring and
13 evaluation processes, and awarding of grants under this chapter
14 shall be made in a public meeting of, and pursuant to a vote of,
15 the board.

16 ~~SEC. 8.~~

17 ~~SEC. 9.~~ Section 48650 of the Public Resources Code is
18 amended to read:

19 48650. (a) Every oil manufacturer shall pay to the board, on
20 or before the last day of the month following each quarter, an
21 amount equal to six cents (\$0.06) for every quart, or twenty-four
22 cents (\$0.24) for every gallon, of lubricating oil sold or transferred
23 in the state, or imported into the state for use in the state in that
24 quarter. For lubricating oil sold by weight, a weight to volume
25 conversion factor of 7.5 pounds per gallon shall be used to
26 determine the fee. The board may adjust the fee not more than
27 once annually to reflect increases or decreases in the cost-of-living
28 index during the prior fiscal year as measured by the California
29 Consumer Price Index issued by the Department of Industrial
30 Relations or a successor agency. Except as provided in subdivision
31 (b), no payment is required for oil that meets any of the following:

32 (1) Oil for which a payment has already been made to the board
33 pursuant to this section.

34 (2) Oil exported or sold for export from the state.

35 (3) Oil sold for use in vessels operated in interstate or foreign
36 commerce.

37 (4) Oil imported into the state in the engine crankcase,
38 transmission, gear box, or differential of an automobile, bus, truck,
39 vessel, plane, train, or heavy equipment or machinery.

1 (5) Bulk oil imported into, transferred in, or sold in the state to
2 a motor carrier, as defined in Section 408 of the Vehicle Code,
3 and used in a vehicle designated in subdivisions (a) and (b) of
4 Section 34500 of the Vehicle Code.

5 (6) The oil otherwise subject to payment pursuant to this
6 subdivision has a volume of five gallons or less.

7 (7) Oil sold as a finished lubricant containing 100 percent
8 rerefined base lubricant.

9 (b) If oil exempted from payment pursuant to subdivision (a)
10 is subsequently sold or transferred for use, or is used, in this state,
11 and the use does not qualify for exemption pursuant to subdivision
12 (a), the entity that sells, transfers, or uses the oil for a purpose that
13 is not exempt from payment, shall make the payment specified in
14 subdivision (a).

15 ~~SEC. 9.~~

16 *SEC. 10.* Section 48651 of the Public Resources Code is
17 amended to read:

18 48651. (a) The board shall pay a recycling incentive pursuant
19 to subdivision (a) of Section 48652 to every industrial generator,
20 curbside collection program, and certified used oil collection center,
21 for used lubricating oil collected from the public or generated by
22 the industrial generator, if either of the following conditions apply:

23 (1) The used lubricating oil is transported by a used oil hauler
24 to a used oil storage facility or to a used oil transfer facility.

25 (2) The used lubricating oil is transported by a used oil hauler
26 directly to an in-state used oil recycling facility that is certified
27 pursuant to subdivision (a) of Section 48662, or to an out-of-state
28 used oil recycling facility registered pursuant to subdivision (b)
29 of Section 48662 or certified pursuant to subdivision (c) of Section
30 48662.

31 (b) A used oil storage facility or a used oil transfer facility that
32 accepts used oil pursuant to paragraph (1) of subdivision (a) shall
33 cause that oil to be transported by a used oil hauler to a used oil
34 recycling facility certified pursuant to subdivision (a) of Section
35 48662 or to an out-of-state used oil recycling facility registered
36 pursuant to subdivision (b) of Section 48662 or certified pursuant
37 to subdivision (c) of Section 48662.

38 ~~SEC. 10.~~

39 *SEC. 11.* Section 48651.5 is added to the Public Resources
40 Code, to read:

1 48651.5. (a) The board, with regard to promoting the recycling
2 of used lubricating oil into rerefined oil, shall pay a rerefining
3 incentive pursuant to subdivision (b) of Section 48652 if all of the
4 following conditions are met:

5 (1) The facility is an in-state or out-of-state recycling facility
6 that is certified in accordance with subdivision (c) of Section 48662
7 and produces rerefined base lubricant meeting the specifications
8 of rerefined oil as defined in Section 48620.2.

9 (2) The used oil was generated and collected within the state
10 and prior to treatment or processing has been tested to meet the
11 definition of used oil as specified in paragraph (1) of subdivision
12 (a) of Section 25250.1 of the Health and Safety Code.

13 (3) The facility submits to the board a completed used oil
14 rerefining incentive payment claim in the form and manner that
15 the board may prescribe.

16 (b) To further promote the safe management of used oil, the
17 board, using existing financial resources, shall identify and evaluate
18 the most environmentally beneficial uses of used lubricating oil.
19 On or before January 1, 2012, the board shall consider whether to
20 implement additional incentives pursuant to this section that
21 prioritize the highest and most beneficial uses of used lubricating
22 oil.

23 ~~SEC. 11.~~

24 *SEC. 12.* Section 48652 of the Public Resources Code is
25 amended to read:

26 48652. (a) The board shall set the recycling incentive at not
27 less than ten cents (\$0.10) per quart. The board may set the amount
28 at an amount higher than ten cents (\$0.10) if the board determines
29 that a higher amount is necessary to promote the collection and
30 recycling of used lubricating oil and sufficient funds are available
31 in the fund.

32 (b) The board shall set the rerefining incentive at not less than
33 two cents (\$0.02) per quart. The board may set the amount at an
34 amount higher than two cents (\$0.02) per quart if the board
35 determines that a higher amount is necessary to promote rerefining
36 of used lubricating oil and sufficient funds are available in the
37 fund.

38 (c) The board shall not change the amount of an incentive paid
39 pursuant to this section until at least one year has passed since the
40 amount was last set. The amount of an incentive paid by the board

1 shall remain at the previous amount for one month after setting
2 the incentive at a different amount. The board shall not raise the
3 amount of an incentive paid or implement other incentive options
4 pursuant to subdivision (b) of Section 48651.5 unless it finds that
5 the raise will not adversely affect funding required pursuant to
6 Sections 48631, 48653, and 48660.5.

7 ~~SEC. 12.~~

8 *SEC. 13.* Section 48653 of the Public Resources Code is
9 amended to read:

10 48653. The board shall deposit all amounts paid pursuant to
11 Section 48650 by manufacturers, civil penalties, and fines paid
12 pursuant to this chapter, and all other revenues received pursuant
13 to this chapter into the California Used Oil Recycling Fund, which
14 is hereby created in the State Treasury. Notwithstanding Section
15 13340 of the Government Code, the money in the fund is to be
16 appropriated solely as follows:

17 (a) Continuously appropriated to the board for expenditure for
18 the following purposes:

19 (1) To pay recycling incentives pursuant to Section 48651.

20 (2) To provide a reserve for contingencies, as may be available
21 after making other payments required by this section, in an amount
22 not to exceed one million dollars (\$1,000,000).

23 (3) To make payments for the implementation of local used oil
24 collection programs adopted pursuant to Article 10 (commencing
25 with Section 48690) to cities, based on the city's population, and
26 counties, based on the population of the unincorporated area of
27 the county. Notwithstanding subdivision (b) of Section 48656, the
28 total annual amount shall equal thirteen million dollars
29 (\$13,000,000), except that the board may issue the payments as
30 follows, if sufficient funds are not available in the fund:

31 (A) (i) One-half of the amount that remains in the fund after
32 the expenditures are made pursuant to paragraphs (1) and (2) and
33 subdivision (b).

34 (ii) The board may utilize additional amounts from the fund up
35 to, but not exceeding, thirteen million dollars (\$13,000,000).

36 (B) Pursuant to paragraph (2) of subdivision (d) of Section
37 48691, it is the intent of this paragraph that at least three million
38 dollars (\$3,000,000) be made available specifically for used oil
39 filter collection and recycling programs.

1 (C) Payments shall be determined by multiplying the total annual
2 amount by the fraction equal to the population of cities and counties
3 that are eligible for payments pursuant to Section 48690, divided
4 by the population of the state. The board shall use the latest
5 population estimates of the state generated by the Population
6 Research Unit of the Department of Finance in making the
7 calculations required by this paragraph.

8 (4) To implement Section 48660.5, in an amount not to exceed
9 two hundred thousand dollars (\$200,000) annually.

10 (5) For expenditures pursuant to Section 48656.

11 (b) The money in the fund may be expended by the board for
12 the administration of this chapter and by the department for
13 inspections and reports pursuant to Section 48661, only upon
14 appropriation by the Legislature in the annual Budget Act.

15 (c) (1) Except as provided in paragraph (2), the money in the
16 fund may be transferred to the Farm and Ranch Solid Waste
17 Cleanup and Abatement Account in the General Fund, upon
18 appropriation by the Legislature in the annual Budget Act, to pay
19 the costs associated with implementing and operating the Farm
20 and Ranch Solid Waste Cleanup and Abatement Grant Program
21 established pursuant to Chapter 2.5 (commencing with Section
22 48100).

23 (2) The money in the fund attributable to a charge increase or
24 adjustment made or authorized in an amendment to subdivision
25 (a) of Section 48650 by the measure adding this paragraph shall
26 not be transferred to the Farm and Ranch Solid Waste Cleanup
27 and Abatement Account.

28 (d) Appropriations to the board to pay the costs necessary to
29 administer this chapter shall not exceed three million dollars
30 (\$3,000,000) annually.

31 (e) The Legislature hereby finds and declares its intent that three
32 hundred fifty thousand dollars (\$350,000) should be annually
33 appropriated from the California Used Oil Recycling Fund in the
34 annual Budget Act to the board, commencing with fiscal year
35 2010–11, for the purposes of Section 48655 and to conduct those
36 investigations and enforcement actions necessary to implement
37 subdivision (b) of Section 48651.

38 ~~SEC. 13.~~

39 *SEC. 14.* Section 48656 of the Public Resources Code is
40 amended to read:

1 48656. After all of the expenditures pursuant to Section 48653
2 have been made, notwithstanding paragraph (5) of subdivision (a)
3 of Section 48653, the balance remaining in the fund shall be
4 available to the board for the following purposes:

5 (a) The implementation of subdivisions (b) and (c) of Section
6 48631 and Section 48651.5, subject to both of the following
7 requirements:

8 (1) The allocation of funds to implement subdivisions (b) and
9 (c) of Section 48631 shall be at the discretion of the board to be
10 determined annually in a public meeting and pursuant to a vote of
11 the board.

12 (2) The board shall pay rerefining incentives pursuant to Section
13 48651.5 provided sufficient funds are available in the fund.

14 (b) Annual revenues left unspent in excess of one million dollars
15 (\$1,000,000) shall be allocated pursuant to paragraph (3) of
16 subdivision (a) of Section 48653 for local collection programs
17 adopted pursuant to Article 10 (commencing with Section 48690).

18 ~~SEC. 14.~~

19 *SEC. 15.* Section 48660 of the Public Resources Code is
20 amended to read:

21 48660. (a) No used oil collection center shall be eligible for
22 the payment of recycling incentives until the board has certified
23 that the center is in compliance with the requirements in
24 subdivision (b). Before certification, the board may require the
25 center to submit any information that the board determines is
26 necessary to find that the center is in compliance with those
27 requirements. A center shall reapply for certification every four
28 years. The board may cancel the certification of a center if the
29 board finds that the center is not, or has not been, in compliance
30 with subdivision (b). The board may withhold the payment of
31 recycling incentives for used lubricating oil collected by a center
32 if the board finds that the center was not in compliance with
33 subdivision (b) during the time in which the used lubricating oil
34 was collected.

35 (b) To be eligible for certification by the board and for the
36 payment of recycling incentives, the used oil collection center shall
37 do all of the following:

38 (1) Accept used lubricating oil from the public at no charge
39 during the hours that the entity operating as the center is open for
40 business.

1 (2) Pay to a person, at his or her request, an amount equal to
2 the recycling incentive that the center will receive for used
3 lubricating oil brought to the center in containers by the person.
4 Nothing in this chapter prohibits a person from donating used
5 lubricating oil to a center. The recycling incentive may be in the
6 form of a credit that may be applied toward the purchase of goods
7 or services offered by the center, as determined by the board. The
8 credit shall be in the form of a voucher or coupon with a value of
9 at least twice the incentive amount to be paid pursuant to Section
10 48652 and have no other limits for use, unless prescribed by the
11 board.

12 (3) Provide information to the board for informing the public
13 of the center's acceptance of used lubricating oil.

14 (4) Provide notice to the public of the center's acceptance of
15 used lubricating oil from the public through periodic advertising
16 in local media and onsite signs that meet the following
17 requirements:

18 (A) Onsite signs shall be of a design and specification prescribed
19 by the board and shall state that the center is certified by the state
20 and collects used oil from the public at no charge.

21 (B) A certified center shall post an exterior sign of a design and
22 specification prescribed by the board in a location that is easily
23 visible from a public street. In addition, the certified center shall
24 post an informational sign of a design and specification prescribed
25 by the board so that it is easily readable from the location where
26 the used oil is received from the public.

27 (C) If local zoning ordinances prevent signs of a size consistent
28 with this paragraph, the exterior symbolic sign shall be of the
29 maximum allowable size.

30 (c) Notwithstanding subdivision (b), a used oil collection center
31 may refuse to accept used lubricating oil that has been
32 contaminated in a manner other than that which would occur
33 through normal use.

34 (d) Notwithstanding subdivision (b), a used oil collection center
35 shall not knowingly accept used lubricating oil for which a payment
36 has not been made pursuant to Section 48650.

37 ~~SEC. 15.~~

38 *SEC. 16.* Section 48660.5 of the Public Resources Code is
39 amended to read:

1 48660.5. (a) If the board finds that a shipment of used oil from
2 a certified used oil collection center, curbside collection program,
3 or an uncertified publicly funded used oil collection center in a
4 small rural county is contaminated by hazardous materials in excess
5 of that which generally occurs in normal use, which renders the
6 used oil infeasible for recycling, and requires that the used oil be
7 destroyed at a substantially higher cost than the cost generally to
8 recycle used oil, the board shall, upon application by the used oil
9 collection center or curbside collection program, reimburse the
10 center or program for the additional disposal cost, subject to the
11 eligibility requirements of subdivision (b), except as provided in
12 subdivision (c).

13 (b) A certified used oil collection center, curbside collection
14 program, or an uncertified publicly funded used oil collection
15 center in a small rural county is eligible for reimbursement only
16 if it demonstrates to the satisfaction of the board all of the
17 following, except that paragraph (1) does not apply to a publicly
18 funded used oil collection center in a small rural county:

19 (1) The center or program has established procedures to ensure
20 that the used oil it generates and accepts from the public will not
21 be mixed with other hazardous wastes, especially
22 halogen-contaminated and polychlorinated biphenyl-contaminated
23 wastes. These procedures shall include, but not be limited to,
24 instructing the public and employees that used oil shall not be
25 mixed with other hazardous waste. The board shall not require a
26 center or program to test used oil received from the public as part
27 of these procedures.

28 (2) The shipment contains not more than five gallons or pounds
29 of contaminants combined, based on the contaminant
30 concentrations and the total volume or weight of the shipment.

31 (c) In a calendar year, a used oil collection center, curbside
32 collection program, or uncertified publicly funded used oil
33 collection center in a small rural county shall be reimbursed for
34 not more than one shipment and for not more than five thousand
35 dollars (\$5,000) in disposal costs, for halogen-contaminated waste
36 or not more than the actual net additional costs of disposing of
37 polychlorinated biphenyl-contaminated wastes, subject to the
38 availability of funds pursuant to Section 48656.

1 ~~SEC. 16.~~

2 *SEC. 17.* Section 48662 of the Public Resources Code is
3 amended to read:

4 48662. (a) The board shall certify or recertify any used oil
5 recycling facility located in this state for which the board has
6 received a report from the department pursuant to Section 48661,
7 unless the board determines that the facility is engaged in a
8 repeating or recurring pattern of noncompliance that poses a
9 significant threat to public health and safety or the environment.

10 (b) Except as provided in paragraph (2) of subdivision (c), the
11 board shall require an out-of-state recycling facility, that receives
12 used oil from a California generator to which a recycling incentive
13 may be paid, to register with the board, declaring, under penalty
14 of perjury, that the facility is operating in substantial compliance
15 with Part 279 (commencing with Section 279.1) of Title 40 of the
16 Code of Federal Regulations.

17 (c) The board shall certify or recertify a rerefiner of used oil for
18 which the board has received a report from the department that
19 the facility meets either of the following requirements:

20 (1) The used oil recycling facility located in this state is certified
21 pursuant to subdivision (a) and produces rerefined base lubricant
22 meeting the specifications as defined in Section 48620.2.

23 (2) The used oil recycling facility is an out-of-state facility that
24 has demonstrated to the satisfaction of the department all of the
25 following:

26 (A) The facility substantially meets the requirements in Part
27 279 (commencing with Section 279.1) of Title 40 of the Code of
28 Federal Regulations.

29 (B) The facility produces rerefined base lubricant meeting the
30 specifications as defined in Section 48620.2.

31 (C) The facility meets California standards for used oil handling,
32 waste classification, and disposal specified in Section ____ of the
33 Health and Safety Code.

34 (d) An out-of-state facility that seeks certification shall annually
35 certify in writing to the board, under penalty of perjury, that the
36 facility substantially meets the requirements in paragraph (2) of
37 subdivision (c).

38 (e) Paragraph (2) of subdivision (c) does not require the
39 department to inspect or prohibit the department from inspecting
40 an out-of-state facility to determine whether the department is

1 satisfied that the facility substantially meets the requirements for
2 certification.

3 (f) As a condition of demonstrating compliance pursuant to
4 paragraph (2) of subdivision (c), a facility shall enter into an
5 agreement with the department pursuant to Section 25201.9 of the
6 Health and Safety Code to pay the department's full expenses of
7 conducting the review and any inspection costs the department
8 may incur in determining whether the facility meets the
9 requirements for certification.

10 (g) If the board denies certification to a facility subject to
11 subdivision (a) or (c), the board may subsequently certify the
12 facility if it determines that the facility meets the standards for
13 certification.

14 ~~SEC. 17.~~

15 *SEC. 18.* Section 48670 of the Public Resources Code is
16 amended to read:

17 48670. (a) To be eligible for payment of a recycling incentive,
18 an industrial generator of used lubricating oil, a used oil collection
19 center, or a curbside collection program shall report to the board,
20 for each quarter, based on the following reporting limitations and
21 requirements:

22 (1) The amount of lubricating oil purchased and the amount of
23 used lubricating oil that is transported to a certified used oil
24 recycling facility, to a used oil storage facility or to a used oil
25 transfer facility, or that is transported to an out-of-state recycling
26 facility registered with the board to be operating in substantial
27 compliance with Part 279 (commencing with Section 279.1) of
28 Title 40 of the Code of Federal Regulations.

29 (2) The amount of used lubricating oil collected from the public,
30 for use in determining the recycling incentive payment, that is
31 transported to a certified used oil recycling facility, to a used oil
32 storage facility, or to a used oil transfer facility, or that is
33 transported to an out-of-state recycling facility registered with the
34 board to be operating in substantial compliance with Part 279
35 (commencing with Section 279.1) of Title 40 of the Code of
36 Federal Regulations. However, a certified collection center with
37 service bays located in a small rural county shall be eligible for a
38 recycling incentive based on 60 percent of the total oil recycled
39 by collecting used oil from the public and servicing motor vehicles.
40 If the center documents, in the form prescribed by the board, that

1 the portion that resulted from public collection exceeds 60 percent
2 of the total oil recycled, the center shall be eligible for the incentive
3 payment based on the actual amount of used oil accepted from the
4 public and recycled.

5 (b) The reports shall be submitted on or before the 45th day
6 following each quarter, in the form and manner that the board may
7 prescribe, and shall include copies of manifests or modified
8 manifest receipts from used oil haulers.

9 (c) The board may delegate to the executive officer of the board
10 the authority to accept reports submitted after the 45th day and to
11 reduce, eliminate, or approve the amount of incentive fee to be
12 paid due to the late submission of the report. The board may
13 provide, by regulation, for a longer reporting period for industrial
14 generators that generate less than 1,000 gallons of used oil
15 annually.

16 ~~SEC. 18.~~

17 *SEC. 19.* Section 48673 of the Public Resources Code is
18 amended to read:

19 48673. (a) A used oil recycling facility issued a permit by the
20 department to produce recycled oil, as defined in Section 25250.1
21 of the Health and Safety Code, and an out-of-state recycling facility
22 that is either registered with the board pursuant to subdivision (b)
23 of Section 48662 or certified by the board pursuant to subdivision
24 (c) of Section 48662, shall report to the board for each quarter the
25 amount of California used oil received and the resultant amount
26 of recycled oil produced.

27 (b) A facility subject to this section shall provide estimates,
28 where feasible, of the amount that is used lubricating oil and the
29 amount that is used industrial oil.

30 (c) The reports required by this section shall be submitted on
31 or before the last day of the month following each quarter, in the
32 form and manner that the board may prescribe.

33 ~~SEC. 19.~~

34 *SEC. 20.* Section 48674 of the Public Resources Code is
35 amended to read:

36 48674. After receiving payments pursuant to paragraph (3) of
37 subdivision (a) of Section 48653, each local government shall
38 submit a report to the board, in the manner specified by the board,
39 that includes any amendments to the local used oil collection
40 program adopted pursuant to Section 48690, a description of all

1 measures taken to implement the program, and a description of
2 how payments were expended.

3 ~~SEC. 20.~~

4 *SEC. 21.* Section 48690 of the Public Resources Code is
5 amended to read:

6 48690. A local government is eligible for a payment pursuant
7 to paragraph (3) of subdivision (a) of Section 48653, if it develops
8 and submits a local used oil collection program to the board
9 pursuant to Section 48691 and files a report pursuant to Section
10 48674. The board shall make a payment to every local government
11 that submits a program and files a report unless the board finds
12 that the program or its implementation does not comply with
13 criteria contained in this article. The board may make a payment
14 to another entity that will implement the program of a local
15 government in lieu of making a payment to that local government
16 with the concurrence of that local government. A payment issued
17 by the board pursuant to this section may take the form of an
18 advance payment. If a local government does not implement a
19 used oil collection program or chooses not to accept the payment
20 pursuant to paragraph (3) of subdivision (a) of Section 48653, the
21 board may allocate that local government's payment to another
22 local government that commits to implementing a used oil
23 collection program pursuant to Section 48691 and serving the
24 residents of the nonparticipating local government provided that
25 any program implemented within the boundaries of the
26 nonparticipating jurisdiction is approved by the nonparticipating
27 jurisdiction.

28 ~~SEC. 21.~~

29 *SEC. 22.* Section 48691 of the Public Resources Code is
30 amended to read:

31 48691. (a) A local used oil collection program shall provide
32 for used lubricating oil collection by either of the following or a
33 combination of the two:

34 (1) Ensuring that at least one certified used oil collection center
35 is available for every 100,000 residents not served by curbside
36 used oil collection, that accepts oil from the public at no charge,
37 at least 20 hours each week, on four days each week, of which
38 three hours each week are outside the weekday hours of 8 a.m.
39 through 5:30 p.m.

40 (2) Providing used oil curbside collection at least once a month.

1 (b) A local used oil collection program shall include a public
2 education program that informs the public of locally available used
3 oil recycling opportunities.

4 (c) A local government may implement its used oil collection
5 program in conjunction with other similar programs in order to
6 improve used oil recycling efficiency.

7 (d) A local government that has implemented the used oil
8 collection and education elements of subdivisions (a) and (b) may
9 also include, in the local used oil collection program one or both
10 of the following:

11 (1) Provisions for the mitigation and the collection of oil and
12 oil byproducts, including other solid waste that may be mixed with
13 oil or oil byproducts from stormwater runoff, including devices to
14 capture that stormwater runoff, such as the use of storm drain inlet
15 filter devices. A local government shall not receive a payment
16 pursuant to Section 48690 for the purposes identified pursuant to
17 this paragraph unless the local government certifies that it has a
18 stormwater management program that is approved by the
19 appropriate California regional water quality control board and
20 that the provisions in the local used oil collection program approved
21 for funding under this paragraph are consistent with that approved
22 stormwater management program.

23 (2) A used oil filter collection and recycling program.

24 ~~SEC. 22.~~

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

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AMENDED IN SENATE MAY 6, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 25

Introduced by Senator Padilla

December 1, 2008

An act to amend Sections 41780, 44009, 45014, 45024, and 48000 of, to add Sections 40142, 41780.01, and 41826 to, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of, Chapter 2.7 (commencing with Section 48300) to Part 7 of, and Chapter 8 (commencing with Section 49700) to Part 8 of, Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 25, as amended, Padilla. Solid waste.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. The source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

This bill would require a jurisdiction, for each subsequent revision of the element, to divert 60% of all solid waste on and after January 1, 2015, through source reduction, recycling, and composting activities, thereby imposing a state-mandated local program by imposing new duties on local agencies regarding solid waste.

The bill would provide that the state's waste reduction target is to divert 75% of solid waste, on and after January 1, 2020, through source reduction, recycling, and composting activities.

(2) The act requires the board to determine whether a jurisdiction has been making a good faith effort to implement its source reduction and recycling element and household hazardous waste element in specified circumstances. The act specifies information that the board is required to consider in making that determination.

This bill would require the board additionally to consider the jurisdiction's efforts in diverting organic material from disposal or deposit in solid waste landfills.

(3) The act defines various terms for purposes of the act.

This bill additionally would define "illegal dumping" for purposes of the act, to mean the act of disposing of solid waste at a location that is not a permitted solid waste disposal facility or is not otherwise authorized for the disposal of solid waste pursuant to the act or regulations adopted by the board.

(4) The act authorizes a local governmental agency to determine aspects of solid waste handling that are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and the nature, location, and extent of providing solid waste handling services.

This bill would require the board, by January 1, 2011, to adopt a model ordinance that ~~establishes an enforcement program~~ *contains elements for residential refuse service providers. A city or county local agency* would be authorized but not required to adopt the board's model ordinance.

The bill would authorize the board to establish an illegal dumping prevention program to provide grants or loans to ~~public~~ *local* agencies, *as the bill would define that term*, to fund the development of new, or the expansion of existing, comprehensive local illegal dumping programs. The board would be authorized to expend moneys in the Integrated Waste Management Account and other funds, as appropriate, upon appropriation by the Legislature, for the purposes of providing the grants and loans.

(5) The act requires the board to concur in or object to the issuance, modification, or revision of a solid waste facilities permit within 60 days from the date of the board's receipt of a proposed solid waste facilities permit from an enforcement agency. If the board does not concur or object during that period, the board generally is deemed to

have concurred in the issuance of the permit. Upon making certain determinations, the board is required to object to the permit and submit those objections to the enforcement agency.

This bill would instead require that the board *concur in or* object to a proposed permit, in writing, within 60 days, or 90 days under specified circumstances, or the board would be deemed to have concurred in the issuance of the permit. The bill would require, if the board makes certain determinations requiring an objection, that the board submit the basis for the objection to the enforcement agency within 15 days after the board's determination.

(6) The act requires each operator of a disposal facility to pay a quarterly fee to the State Board of Equalization that is based on the amount of all solid waste disposed of at each disposal site. The amount of the fee is established by the California Integrated Waste Management Board at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but is prohibited from exceeding \$1.40 per ton.

This bill would require the fee to be equal to \$2.13 per ton, on and after January 1, 2012, and require the California Integrated Waste Management Board to adjust the fee not more than once every 2 years to reflect increases or decreases in the cost of living during the prior 2 fiscal years.

(7) The bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials that are not solid waste, per week, *by January 1, 2012, except as otherwise provided*, to arrange for recycling services applicable to the collection, handling, or recycling of solid waste, to the extent the services are offered and reasonably available from a local service provider.

The bill also would require each city, county, solid waste authority, or other joint powers authority located in a county with a population of 200,000 or more to adopt *by January 1, 2012*, a commercial recycling ordinance, as specified, thereby imposing a state-mandated local program by imposing new duties on local agencies with regard to solid waste.

(8) This bill would also make technical, nonsubstantive changes to the act.

(9) 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. The Legislature finds and declares all of the
2 following:

3 (a) The responsibility for solid waste management is a shared
4 responsibility between the state and local governments and the
5 state should exercise this responsibility in a manner that ensures
6 an effective and coordinated approach to the safe management of
7 all solid waste generated within the state and shall oversee the
8 design and implementation of local integrated waste management
9 plans.

10 (b) It is the policy of the state to assist local governments in
11 minimizing duplication of effort, and in minimizing the costs
12 incurred, in implementing Division 30 (commencing with Section
13 40000) of the Public Resources Code through the development of
14 regional cooperative efforts and other mechanisms that comply
15 with that division.

16 ~~(e) Market development is the key to successful and~~
17 ~~cost-effective implementation of the 25-percent and 50-percent~~
18 ~~diversion requirements in Section 41780 of the Public Resources~~
19 ~~Code, and the state should take a leadership role, pursuant to~~
20 ~~Chapter 1 (commencing with Section 42000) of Part 3 of Division~~
21 ~~30 of the Public Resources Code, in encouraging the expansion of~~
22 ~~markets for recycled products by working cooperatively with the~~
23 ~~public, private, and nonprofit sectors.~~

24 ~~(d)~~
25 (c) Illegal dumping abatement, enforcement, and public
26 awareness programs should be included among the services
27 provided by state and local integrated waste management programs,
28 and the state should coordinate illegal dumping programs.

29 SEC. 2. Section 40142 is added to the Public Resources Code,
30 to read:

31 40142. "Illegal dumping" means the act of disposing of solid
32 waste at a location that is not a permitted solid waste disposal

1 facility or that is not otherwise authorized for the disposal of solid
2 waste pursuant to this division or regulations adopted by the board.

3 SEC. 3. Section 41780 of the Public Resources Code is
4 amended to read:

5 41780. (a) Each jurisdiction's source reduction and recycling
6 element shall include an implementation schedule that shows both
7 of the following:

8 (1) For the initial element, the jurisdiction shall divert 25 percent
9 of all solid waste by January 1, 1995, through source reduction,
10 recycling, and composting activities.

11 (2) Except as provided in Sections 41783 and 41784, for the
12 first and each subsequent revision of the element, the jurisdiction
13 shall divert 50 percent of all solid waste on and after January 1,
14 2000, through source reduction, recycling, and composting
15 activities.

16 (3) Except as provided in Sections 41783 and 41784, for each
17 subsequent revision of the element, the jurisdiction shall divert 60
18 percent of all solid waste on and after January 1, 2015, through
19 source reduction, recycling, and composting activities.

20 (b) This section does not prohibit a jurisdiction from
21 implementing source reduction, recycling, and composting
22 activities designed to exceed the requirements of this division.

23 SEC. 4. Section 41780.01 is added to the Public Resources
24 Code, to read:

25 41780.01. Except as provided in Sections 41783 and 41784,
26 the state's waste reduction target is to divert 75 percent of solid
27 waste, on and after January 1, 2020, through source reduction,
28 recycling, and composting activities.

29 SEC. 5. Section 41826 is added to the Public Resources Code,
30 to read:

31 41826. For purposes of determining pursuant to Section 41825
32 whether a jurisdiction has made a good faith effort, the board, in
33 addition to the criteria required by that section, shall also consider
34 the jurisdiction's efforts to divert organic material from disposal
35 or deposit in solid waste landfills.

36 SEC. 6. Chapter 12.8 (commencing with Section 42649) is
37 added to Part 3 of Division 30 of the Public Resources Code, to
38 read:

CHAPTER 12.8. COMMERCIAL RECYCLING

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42649. (a) ~~The~~ *Except as otherwise provided in a local ordinance adopted pursuant to subdivision (b), on and after January 1, 2012, the owner or operator of a business that contracts for solid waste services and generates more than four cubic yards of total solid waste and recyclable materials that are not solid waste, per week, shall arrange for recycling services applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider.*

(b) By January 1, 2012, each city, county, solid waste authority, or other joint powers authority located within a county with a population of 200,000 or more shall adopt a commercial recycling ordinance that is consistent with this section.

(c) A commercial recycling ordinance adopted pursuant to this section shall include, at a minimum, both of the following:

(1) Enforceable requirements that a business described in subdivision (a) take one of the following actions:

(A) Source separate specified recyclable materials from solid waste and subscribe to a basic level of recycling service that includes the collection of those recyclable materials or specific provisions for authorized self-hauling.

(B) Subscribe to an alternative type of recycling service, which may include mixed waste processing that yields diversion results comparable to source separation.

(2) Educational, implementation, and enforcement provisions.

(d) For the purposes of this section, "business" means a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized for profit or nonprofit, and multifamily housing.

(e) This section does not limit the authority of a local agency to adopt, implement, or enforce a local commercial recycling ordinance that is more stringent or comprehensive than the requirements of this section or limit the authority of a local agency in a county with a population of less than 200,000 to require commercial recycling.

(f) This section does not modify or abrogate in any manner either of the following:

1 (1) A franchise granted or extended by a city, county, or other
2 local government agency immediately preceding January 1, 2011.

3 (2) A contract, license, or permit to collect solid waste
4 previously granted or extended by a city, county, or other local
5 government agency in effect immediately preceding January 1,
6 2011.

7 (g) (1) When adopting an ordinance pursuant to this section, a
8 local agency may consider the adequacy of areas for collecting
9 and loading recyclable materials.

10 (2) Notwithstanding paragraph (1), a local agency shall not
11 consider the adequacy of areas for collecting and loading recyclable
12 materials for purposes of not complying with this section at a
13 development project, as defined pursuant to Section 42905, if the
14 development project was approved by the local agency on or after
15 September 1, 1994.

16 SEC. 7. Section 44009 of the Public Resources Code is
17 amended to read:

18 44009. (a) (1) Except as provided in paragraph (4), the board
19 shall, in writing, concur in or object to the issuance, modification,
20 or revision of a solid waste facilities permit within 60 days from
21 the date of the board's receipt of the proposed solid waste facilities
22 permit submitted under Section 44007, as part of the complete and
23 correct permit package that conforms with this division and the
24 regulations adopted pursuant to this division, as determined by the
25 board, after consideration of the issues in this section.

26 (2) If the board determines that the proposed permit is not
27 consistent with the state minimum standards adopted pursuant to
28 Section 43020, or is not consistent with Sections 43040, 43600,
29 44007, 44010, 44017, 44150, and 44152 or Division 31
30 (commencing with Section 50000), the board shall object to the
31 proposed permit and shall submit the basis for its objections to the
32 enforcement agency, within 15 days after the board's
33 determination.

34 (3) If the board fails to *concur in or* object to the proposed
35 permit in writing within the 60-day period specified in paragraph
36 (1) or the 90-day period specified in paragraph (4), whichever is
37 applicable, the board shall be deemed to have concurred in the
38 issuance of the proposed permit by operation of law.

39 (4) If the board does not have a full 60 days to review a proposed
40 permit because of the board's schedule of meetings, the board shall

1 object, in writing, to the issuance, modification, or revision of the
2 permit within 90 days from the date of the board's receipt of the
3 proposed solid waste facilities permit submitted pursuant to Section
4 44007, as part of a complete and correct permit package that
5 conforms with this division and the regulations adopted pursuant
6 to this division, as determined by the board.

7 (b) Notwithstanding subdivision (a), the board is not required
8 to concur in, or object to, and shall not be deemed to have
9 concurred in, the issuance of a solid waste facilities permit for a
10 disposal facility if the owner or operator is not in compliance with,
11 as determined by the regional water board, an enforcement order
12 issued pursuant to Chapter 5 (commencing with Section 13300)
13 of Division 7 of the Water Code, or if all of the following
14 conditions exist:

15 (1) Waste discharge requirements for the disposal facility issued
16 by the applicable regional water board are pending review in a
17 petition before the state water board.

18 (2) The petition for review of the waste discharge requirements
19 includes a request for a stay of the waste discharge requirements.

20 (3) The state water board has not taken action on the stay request
21 portion of the pending petition for review of waste discharge
22 requirements.

23 (c) In objecting to the issuance, modification, or revision of a
24 proposed solid waste facilities permit pursuant to this section, the
25 board shall, based on substantial evidence in the record as to the
26 matter before the board, state its reasons for objecting. The board
27 shall not object to the issuance, modification, or revision of a
28 proposed solid waste facilities permit unless the board finds that
29 the permit is not consistent with the state minimum standards
30 adopted pursuant to Section 43020, or is not consistent with Section
31 43040, 43600, 44007, 44010, 44017, 44150, or 44152 or Division
32 31 (commencing with Section 50000).

33 (d) Nothing in this section is intended to require that a solid
34 waste facility obtain a waste discharge permit from a regional
35 water board prior to obtaining a solid waste facilities permit.

36 SEC. 8. Section 45014 of the Public Resources Code is
37 amended to read:

38 45014. (a) Upon the failure of a person to comply with a final
39 order issued by a local enforcement agency or the board, the
40 Attorney General, upon request of the board, shall petition the

1 superior court for the issuance of a preliminary or permanent
2 injunction, or both, as may be appropriate, restraining the person
3 from continuing to violate the order or complaint.

4 (b) An attorney authorized to act on behalf of the local
5 enforcement agency or the board may petition the superior court
6 for injunctive relief to enforce this part, a term or condition in a
7 solid waste facilities permit, or a standard adopted by the board
8 or the local enforcement agency.

9 (c) In addition to the administrative imposition of civil penalties
10 pursuant to this part, Article 6 (commencing with Section 42850)
11 of Chapter 16 of Part 3, and Article 4 (commencing with Section
12 42962) of Chapter 19 of Part 3, an attorney authorized to act on
13 behalf of the local enforcement agency or the board may apply, to
14 the clerk of the appropriate court in the county in which the civil
15 penalty was imposed, for a judgment to collect the penalty. The
16 application, which shall include a certified copy of the decision or
17 order in the civil penalty action, constitutes a sufficient showing
18 to warrant issuance of the judgment. The court clerk shall enter
19 the judgment immediately in conformity with the application. The
20 judgment so entered shall include the amount of the court filing
21 fee that would have been due from an applicant who is not a public
22 agency, and has the same force and effect as, and is subject to all
23 the provisions of law relating to, a judgment in a civil action, and
24 may be enforced in the same manner as any other judgment of the
25 court in which it is entered if the amount of the unpaid court filing
26 fee is paid to the court prior to satisfying any of the civil penalty
27 amount. Thereafter, a civil penalty or judgment recovered shall be
28 paid, to the maximum extent allowed by law, to the board or to
29 the local enforcement agency, whichever is represented by the
30 attorney who brought the action.

31 SEC. 9. Section 45024 of the Public Resources Code is
32 amended to read:

33 45024. An attorney authorized to act on behalf of the board or
34 a local enforcement agency may petition the superior court to
35 impose, assess, and recover the civil penalties authorized by
36 Section 45023. Penalties recovered pursuant to this section shall
37 be paid, to the maximum extent allowed by law, to the board or
38 to the local enforcement agency, whichever is represented by the
39 attorney bringing the action.

1 SEC. 10. Section 48000 of the Public Resources Code is
2 amended to read:

3 48000. (a) An operator of a disposal facility shall pay a fee
4 quarterly to the State Board of Equalization that is based on the
5 amount, by weight or volumetric equivalent, as determined by the
6 board, of all solid waste disposed of at each disposal site.

7 (b) Until December 31, 2011, the amount of the fee shall be
8 established by the board at an amount that is sufficient to generate
9 revenues equivalent to the approved budget for that fiscal year,
10 including a prudent reserve, but the fee shall not exceed one dollar
11 and forty cents (\$1.40) per ton.

12 (c) (1) On and after January 1, 2012, the amount of the fee shall
13 equal two dollars and thirteen cents (\$2.13) per ton, except the
14 board shall adjust the fee not more than once every two years to
15 reflect increases or decreases in the cost of living during the prior
16 two fiscal years as measured by the California Consumer Price
17 Index issued by the Department of Industrial Relations or a
18 successor agency.

19 (2) The board shall notify the State Board of Equalization on
20 the first day of the period in which a rate adjustment made by the
21 board pursuant to this section shall take effect.

22 (d) The board and the State Board of Equalization shall ensure
23 that all the fees for solid waste imposed pursuant to this section
24 that are collected at a transfer station are paid to the State Board
25 of Equalization in accordance with this article.

26 SEC. 11. Chapter 2.7 (commencing with Section 48300) is
27 added to Part 7 of Division 30 of the Public Resources Code, to
28 read:

29
30 CHAPTER 2.7. ILLEGAL DUMPING PREVENTION PROGRAM
31 DEVELOPMENT GRANT AND LOAN PROGRAM
32

33 48300. (a) The board may establish an illegal dumping
34 prevention program to provide grants or loans to ~~public~~ *local*
35 agencies to fund the development of new, or the expansion of
36 existing, comprehensive local illegal dumping programs for the
37 purpose of reducing the occurrence of illegal dumping in the state.

38 (b) *For the purposes of this chapter, "local agency" means a*
39 *city, county, special district, or other local governmental agency*
40 *that has responsibility for illegal dumping.*

1 48301. (a) The board may expend moneys in the Integrated
2 Waste Management Account in the Integrated Waste Management
3 Fund and other funds as appropriate, upon appropriation by the
4 Legislature, for purposes of providing grants and loans pursuant
5 to Section 48300.

6 (b) The board may expend moneys, upon appropriation by the
7 Legislature, for program administration.

8 (c) All funds received from the operation of the program,
9 including, but not limited to, principal repayments, shall be
10 deposited in the fund and may be used for purposes authorized by
11 this chapter.

12 48302. Loans made pursuant to this chapter shall be subject to
13 all of the following requirements:

14 (a) The terms of any approved loan shall be specified in a loan
15 agreement between the borrower and the board.

16 (b) The board shall approve only those loan applications that
17 demonstrate the applicant's financial ability to repay the loan.

18 (c) The term of any loan made pursuant to this section shall not
19 exceed five years.

20 (d) The interest rate of any loan made pursuant to this section
21 may be zero percent.

22 SEC. 12. Chapter 8 (commencing with Section 49700) is added
23 to Part 8 of Division 30 of the Public Resources Code, to read:

24

25 CHAPTER 8. REFUSE SERVICE PROVIDER MODEL ORDINANCE
26 PROGRAM

27

28 49700. For purposes of this chapter, the following terms have
29 the following meanings:

30 (a) "Generator" means a person ~~of that~~ disposes or arranges for
31 the disposal of solid waste generated by that person.

32 (b) "Refuse service provider" means a person that, for
33 compensation, accepts or collects solid waste incidental to cleanup
34 or delivery services, and transports that solid waste from a
35 residential, commercial, or industrial location, for the purpose of
36 subsequent recycling, transfer, or disposal of that solid waste.

37 ~~Residential refuse~~ "Refuse service provider" does not include a
38 ~~public local~~ agency or franchise hauler that transports solid waste
39 in accordance with a franchise agreement with a local ~~government~~
40 ~~or other public~~ agency.

1 ~~(c)~~ “Service provider” means a person that transports or arranges
 2 for the transportation of solid waste.

3 ~~(d)~~

4 (c) “Service vehicle” means a motor-propelled or self-propelled
 5 vehicle that is used for transporting solid waste over the public
 6 streets of unincorporated and incorporated areas of a county for
 7 compensation, regardless of whether the operations of that vehicle
 8 extend beyond the boundaries of the county.

9 49702. (a) On or before January 1, 2011, the board shall adopt
 10 a model ordinance that ~~establishes an enforcement program for~~
 11 ~~residential refuse service providers. The model ordinance may~~
 12 include, but shall not be limited to, the following elements:

13 (1) Registration *and operational* requirements for refuse service
 14 providers.

15 (2) Standards for inspection of service vehicles, *including safety,*
 16 *cleanliness, and signage.*

17 (3) Penalties for noncompliance and other enforcement
 18 mechanisms.

19 (4) Administrative hearing procedures for appeals of
 20 enforcement actions.

21 ~~(5) Requirements for service vehicles relating to safety,~~
 22 ~~cleanliness, and signage.~~

23 ~~(6)~~

24 (5) Standards for providing receipts of service *to generators.*

25 ~~(7)~~

26 (6) Local funding mechanisms.

27 (b) The board shall post the model ordinance described in
 28 subdivision (a) on its Internet Web site.

29 ~~(c) A city or county~~ *local agency* may, but is not required to,
 30 adopt the model ordinance described in this section.

31 SEC. 13. No reimbursement is required by this act pursuant to
 32 Section 6 of Article XIII B of the California Constitution because
 33 a local agency or school district has the authority to levy service
 34 charges, fees, or assessments sufficient to pay for the program or
 35 level of service mandated by this act, within the meaning of Section
 36 17556 of the Government Code.

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AMENDED IN SENATE MAY 6, 2009

SENATE BILL

No. 730

Introduced by Senator Wiggins

February 27, 2009

An act to ~~add Section 48009 to amend Section 48000~~ of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 730, as amended, Wiggins. Solid waste: ~~grants and loans: eligibility. fees.~~

Existing law requires an operator of a disposal facility to pay quarterly to the State Board of Equalization a fee, as determined by the California Integrated Waste Management Board (board), based on the amount of solid waste disposed of at each disposal site.

This bill would require an operator of a transfer or processing station that transfers solid waste for disposal outside of the state to pay the above fee on that solid waste.

~~Existing law authorizes the Integrated Waste Management Board to issue grants and loans to local governments for various purposes including, among other things, expansion of recycling efforts, household hazardous waste, and local enforcement of solid waste regulations.~~

~~This bill would provide that a public entity of the state is ineligible for any grants, loans, or loan guarantees from, or any other financial incentive administered by, the board, if the entity disposes or causes the disposal of solid waste at a facility within the state that does not meet standards that are as stringent as the state standards or at a facility located outside the state.~~

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

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

1 SECTION 1. Section 48000 of the Public Resources Code is
2 amended to read:

3 48000. (a) Each operator of a disposal facility shall pay a fee
4 quarterly to the State Board of Equalization ~~which~~ *that* is based
5 on the amount, by weight or volumetric equivalent, as determined
6 by the board, of all solid waste disposed of at each disposal site.

7 (b) The fee for solid waste disposed of shall be one dollar and
8 thirty-four cents (\$1.34) per ton. Commencing with the 1995-96
9 fiscal year, the amount of the fee shall be established by the board
10 at an amount that is sufficient to generate revenues equivalent to
11 the approved budget for that fiscal year, including a prudent
12 reserve, but shall not exceed one dollar and forty cents (\$1.40) per
13 ton.

14 (c) *An operator of a transfer or processing station that transfers*
15 *waste to a destination outside of the state for disposal shall pay a*
16 *fee quarterly to the State Board of Equalization, as determined by*
17 *the board pursuant to subdivision (b), on all solid waste that the*
18 *operator transfers out of the state for disposal.*

19 ~~(e)~~
20 (d) The board shall notify the State Board of Equalization on
21 the first day of the period in which the rate shall take effect of any
22 rate change adopted pursuant to this section.

23 ~~(d)~~
24 (e) The board and the State Board of Equalization shall ensure
25 that all the fees for solid waste imposed pursuant to this section
26 that are collected at a transfer station are paid to the State Board
27 of Equalization in accordance with this article.

28 SECTION 1. ~~Section 48009 is added to the Public Resources~~
29 ~~Code, to read:~~

30 ~~48009. (a) A public entity of the state is ineligible for any~~
31 ~~grants, loans, or loan guarantees from, or any other financial~~
32 ~~incentives administered by, the board if the entity disposes or~~
33 ~~causes the disposal of solid waste at a facility that does not meet~~
34 ~~standards that are as stringent as the standards set forth in this~~
35 ~~division or regulations issued pursuant to this division or at a~~
36 ~~facility located outside of the state.~~

- 1 ~~(b) This section does not apply to a public entity that entered~~
2 ~~into a solid waste disposal contract before January 1, 2010, for the~~
3 ~~duration of the contract.~~
4 ~~(c) Subdivision (b) does not apply to the renewal of a solid waste~~
5 ~~disposal contract occurring on or after January 1, 2010.~~

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