Complete Text of Selected Solid Waste Bills

• AB 274	Portantino	Solid waste: landfills: closure plans
• AB 283	Chesbro	Solid waste: extended producer responsibility program
• AB 478	Chesbro	Greenhouse gas emissions: waste recycling and waste management
• AB 737	Chesbro	Solid waste: diversion
• AB 1173	Huffman	Hazardous materials: fluorescent lamps: recycling
• AB 1329	Brownley	Waste management
• AB 1343	Huffman	Solid waste: architectural paint: recovery program
• SB 25	Padilla	Solid waste
• SB 402	Wolk	RecyclingL California redemption value
• SB 546	Lownthal	Used oil

Assembly Bill No. 274

Passed the Assembly September 10, 2009

Chief Clerk of the Assembly

Passed the Senate September 9, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ___M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 48000 and 48001 of, to add Section 48001.5 to, and to add Article 2.1 (commencing with Section 48010) to Chapter 2 of Part 7 of Division 30 of, the Public Resources Code, and to amend Section 45901 of the Revenue and Taxation Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 274, Portantino. Solid waste: landfills: closure plans.

Existing law requires an operator of a solid waste disposal facility to pay a quarterly fee to the State Board of Equalization (state board) based on the amount of solid waste disposed of at each disposal site. Commencing with the 1995–96 fiscal year, the act requires the California Integrated Waste Management Board (board) to establish the amount of the fee, as specified, and limits the fee to a maximum of $1.40 per ton. The fees are required to be deposited in the Integrated Waste Management Account in the Integrated Waste Management Fund, and the board is authorized to expend the money in the account, upon appropriation by the Legislature, to administer and implement the act.

This bill, on and after January 1, 2012, would authorize an operator of a solid waste disposal facility that is required to meet financial assurance requirements and is in operation on July 1, 2011, to elect to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund created by this bill.

The bill would require that a participating operator pay a fee of $0.12 per ton per disposal site. The bill would require the fee to be collected in the same manner as the solid waste disposal fee described above, and require the board to fulfill certain administrative reporting requirements to the state board. The bill would also require that the fee be deposited in the fund and made available to the board for expenditure, upon appropriation by the Legislature, for postclosure activities and corrective actions not performed by any owner or operator of a solid waste landfill when the owner or operator fails to comply with the board's final order, the financial assurance mechanisms are inadequate to fund necessary compliance activities, the solid waste landfill was

operating pursuant to a valid solid waste facilities permit on or after January 1, 1988, and the board has first used and exhausted all immediately available financial assurance mechanisms provided by the operator.

The bill would require that the fee not be operative on and after January 1, 2012, unless the board received, on or before July 1, 2011, letters of participation in the State Solid Waste Postclosure and Corrective Action Trust Fund from landfill operators representing at least 50% of the total annual waste disposal tonnage in 2010, as determined by the board. The bill would make conforming changes.

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

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

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

(b) (1) The fee for solid waste disposed of shall be one dollar and thirty-four cents ($1.34) per ton. Commencing with the 1995–96 fiscal year, the amount of the fee shall be established by the board at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but shall not exceed one dollar and forty cents ($1.40) per ton.

(2) On and after January 1, 2012, the amount of the fee established by the board pursuant to paragraph (1) shall be increased by twelve cents ($0.12) per ton for each operator of a solid waste landfill that notifies the board that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund pursuant to Article 2.1.

(c) The board shall notify the state board on the first day of the period in which the rate shall take effect of any rate change adopted pursuant to paragraphs (1) and (2) of subdivision (b).

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

(e) (1) The fee imposed by paragraph (2) of subdivision (b) shall not be operative on or after January 1, 2012, unless the board receives, on or before July 1, 2011, letters of participation in the State Solid Waste Postclosure and Corrective Action Trust Fund from landfill operators representing at least 50 percent of the total volume of waste disposed of in 2010.

(2) The board shall notify the state board, on or before August 31, 2011, if the fee imposed by paragraph (2) of subdivision (b) shall become operative, pursuant to paragraph (1).

SEC. 2. Section 48001 of the Public Resources Code is amended to read:

48001. The revenue from the fees paid pursuant to paragraph (1) of subdivision (b) of Section 48000 shall, after payment of refunds and administrative costs of collection, be deposited in the Integrated Waste Management Account, which is hereby created in the fund.

SEC. 3. Section 48001.5 is added to the Public Resources Code, to read:

48001.5. (a) The revenue from the fees paid pursuant to paragraph (2) of subdivision (b) of Section 48000 shall, after payment of refunds and administrative costs of collection, be deposited in the State Solid Waste Postclosure and Corrective Action Trust Fund, which is hereby created in the State Treasury.

(b) Fees, revenues, and all interest earned shall be available to the board, upon appropriation by the Legislature, to carry out the purposes of Article 2.1, including all of the following:

(1) Corrective action and postclosure activities pursuant to subdivision (b) of Section 48011.

(2) Administrative costs incurred by the board in implementing Article 2.1.

(3) Any startup costs incurred by the board in implementing Article 2.1 that were incurred before fees were paid pursuant to paragraph (2) of subdivision (b) of Section 48000.

SEC. 4. Article 2.1 (commencing with Section 48010) is added to Chapter 2 of Part 7 of Division 30 of the Public Resources Code, to read:

Article 2.1. State Solid Waste Postclosure and Corrective Action Trust Fund

48010. (a) (1) An operator of a landfill maintain evidence of financial ability pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 4, that is operating the landfill on July 1, 2011, and that elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund pursuant to this article, shall submit written notice to the board on or before July 1, 2011.

(2) An operator of multiple landfills that elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund is required to submit written notice that includes all of the operator's operating landfills and all other landfills in which that operator has in common ownership.

(3) The board shall provide to the state board the name and address, and any other information necessary to administer and collect the fee imposed pursuant to paragraph (2) of subdivision (b) of Section 48000, of every operator of a landfill electing to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund on or before August 31, 2011.

(b) If an operator that is operating a landfill on July 1, 2011, submits a written notification to the board that it elects to participate after the trust fund fee goes into effect, the operator shall pay all trust fund fees applicable from January 1, 2012, and a 5-percent penalty before being allowed to participate.

(c) For new landfills that receive a solid waste facility permit after July 1, 2011, the operator's election to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund shall be submitted in writing to the board before the board concurs in the issuance of the permit pursuant to Section 44009.

(d) All elections to participate made by landfill operators pursuant to this section are final, binding, and irrevocable for those operators and their successors and assignees.

48011. (a) For the purposes of this article, "solid waste landfill" means a disposal site that is required to maintain evidence of financial ability pursuant to Part 4 (commencing with Section 43600) of Chapter 2 of Part 4.

(b) The board may expend money in the State Solid Waste Postclosure and Corrective Action Trust Fund to pay for corrective

action and postclosure activities that have not been performed by the owner or operator of a solid waste landfill, upon a determination by the board that all of the following conditions are met:

(1) The solid waste landfill owner or operator has failed to comply with a final enforcement order issued by the enforcement agency, the regional water board, or the board.

(2) The financial assurance mechanisms are inadequate to pay for the required corrective action or postclosure maintenance activities or both that action and those activities.

(3) The solid waste landfill was operating pursuant to a valid solid waste facilities permit on or after January 1, 1988, when the state's requirements for solid waste landfill financial assurances went into effect as a result of Assembly Bill 2448 of the 1987–88 Regular Session, and is required to have financial assurances pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 4.

(4) The board has first used and exhausted all immediately available financial assurance mechanisms provided by the operator.

(5) The solid waste landfill owner and operator are otherwise unable or unwilling to pay, in a timely manner, for the required corrective action or postclosure maintenance activities or both that action and those activities.

(c) The board may adopt regulations, if necessary, setting forth additional criteria for making expenditures from the State Solid Waste Postclosure and Corrective Action Trust Fund.

(d) Notwithstanding Section 10295 of the Public Contract Code, a contract entered into by the board for the purposes of this article is not subject to approval by the Department of General Services.

(e) No liability or obligation is imposed on the state under this article, and the board shall not incur any obligation beyond the extent to which money is expended from the State Solid Waste Postclosure and Corrective Action Trust Fund pursuant to this article.

(f) The board shall, to the maximum extent feasible, recover from the landfill owner or operator the amount of money expended from the State Solid Waste Postclosure and Corrective Action Trust Fund, including a reasonable amount for any board contract administration costs and an amount equal to the interest that would have been earned on the expended funds. The board shall deposit all funds recovered pursuant to an action authorized by this section

into the State Solid Waste Postclosure and Corrective Action Trust Fund.

(g) The amount of any cost incurred by the board pursuant to this section is recoverable from the landfill owner or operator in a civil action brought by the Attorney General pursuant to Section 40432.

(h) The board may, consistent with Section 48023.5, impose a lien on the owner's or operator's assets or real property as an additional remedy to recover funds from the operator for expenditures from the State Solid Waste Postclosure and Corrective Action Trust Fund.

48012. After January 1, 2015, as part of the annual report required pursuant to Section 40507, the board shall report on expenditures from the State Solid Waste Postclosure and Corrective Action Trust Fund, the status of cost recovery actions, and any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the State Solid Waste Postclosure and Corrective Action Trust Fund.

48013. An operator of multiple landfills who is required to maintain evidence of financial ability pursuant to Article 4 (commencing with Section 43600) of Chapter 2 of Part 4 and whose landfills are operating on July 1, 2011, shall include all other landfills in which that operator has in common ownership in the letter of participation.

SEC. 5. Section 45901 of the Revenue and Taxation Code is amended to read:

45901. All fees, interest, and penalties imposed and all amounts of fee required to be paid to the state pursuant to Section 45051 shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments in the following manner:

(a) The payments from the fees paid pursuant to paragraph (1) of subdivision (b) of Section 48000 of the Public Resources Code and related interest and penalties shall be transmitted to the Treasurer for deposit in the Integrated Waste Management Account in the Integrated Waste Management Fund.

(b) The payments from the fees paid pursuant to paragraph (2) of subdivision (b) of Section 48000 of the Public Resources Code and related interest and penalties shall be transmitted to the State Solid Waste Postclosure and Corrective Action Trust Fund.

Approved _____, 2009

_____

Governor

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:

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

CHAPTER 5. CALIFORNIA PRODUCT STEWARDSHIP ACT OF 2009

Article 1. Findings and Declarations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 2. General Provisions

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

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

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

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

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

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

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

Article 3. Definitions

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

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

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

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

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

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

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

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

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

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

48800.12. "Orphan product" means any one of the following:

(a) A covered product that lacks a manufacturer's brand.

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

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

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

48800.14. "Producer" means one of the following:

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

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

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

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

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

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

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

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

48800.18. "Reporting period" means the period commencing January 1 and ending on December 31 of the same calendar year.

48800.19. "Retailer" means a person that offers new products for sale at retail through any means, including remote offerings such as sales outlets, catalogs, or an Internet Web site.

48800.20. "Secondary material" means material that is being reused or recycled that would otherwise be disposed of in a landfill.

48800.21. "Sell" or "sales" means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogs, or an Internet Web site or similar electronic means, but does not include leases.

Article 4. Extended Producer Responsibility Framework Program

48810. (a) (1) The Extended Producer Responsibility Framework Program is hereby created.

(2) The program shall be administered by the board.

(3) The program shall 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.

(b) For purposes of this chapter, the board shall review existing and proposed international, federal, and state extended producer responsibility programs and make reasonable efforts to promote consistency among the programs established pursuant to this part and those other programs.

(c) To ensure the goals of this article are achieved successfully and efficiently, the board shall collaborate with representatives of state and local government, producers, retailers, consumers, transporters, haulers, recyclers, nonprofit organizations, and other interested stakeholders with respect to all regulations adopted pursuant to this article and shall consider the net economic impacts and benefits of a product stewardship plan prior to its approval.

(d) (1) By July 1, 2011, the board, following one or more noticed public workshops and in consultation with the State Air Resources Board, the Department of Conservation, the State Department of Public Health, the Department of Toxic Substances Control, the State Water Resources Control Board, and other

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

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

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

(1) Establish definitions.

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

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

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

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

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

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

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

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

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

(8) Establish penalties for violations of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Energy use and conservation potential.

(5) Climate change impacts and benefits.

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

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

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

(9) Ocean pollution impacts.
(10) Stormwater runoff impacts.
(11) The lack of an existing product stewardship or other regulatory system for the product.
(12) Life cycle net environmental impacts.
(13) Public safety and public health uses of products.
(c) The board may select covered products and set performance goals over time at regularly scheduled board meetings. All products banned from landfill disposal in California shall be designated within one year of adoption of the regulations pursuant to Section 48810, and shall be managed under a product stewardship program.
(d) Through the product selection process, the board shall do the following:
(1) Identify and notify potential interested parties for a proposed covered product.
(2) Select and define a covered product or covered products. This shall include historic and orphan products in addition to new products.
(3) Determine whether the packaging for a covered product shall be considered part of the covered product.
(4) Establish any implementation dates for requirements for covered products.
(5) Identify unique environmental impacts or management requirements, if any, for a covered product.
(6) Set performance goals and timeframes for the covered product.
(7) Establish measurement metrics and reporting protocols for the covered product.
(e) The selection process for covered products described in this section shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, selected covered products and associated performance goals shall be submitted to the Office of Administrative Law for filing and printing with the Secretary of State.
48814. (a) On and after July 1, 2012, a covered product shall not be offered for sale or used for promotional purposes in this state unless the producer or product stewardship organization of the covered product submits a product stewardship plan in

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

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

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

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

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

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

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

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

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

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

(1) Contact information for all participating producers.

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

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

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

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

(A) How the discarded covered product will be collected in all cities, cities and counties, and counties of the state.

(B) The entities that will perform collection services.

(C) How the collection system is available, convenient, accessible, and free of charge statewide.

(D) Locations, hours, and days of operation for collection locations.

(6) A description of the processing and disposal system, including the following:

(A) How the discarded covered product will be reused and recycled.

(B) If the covered product is not reusable nor recyclable, how the covered product will be disposed of or managed in properly permitted facilities appropriate to the covered product, including the disposal or management of hazardous substances.

(C) The location and permit status of processing or disposal facilities.

(D) Processing methods utilized at each facility and how residuals will be handled.

(7) How the product stewardship plan will be financed, including the following:

(A) The mechanism for securing and dispersing funds to cover administrative, operational, and capital costs, including the assessment of charges to producers who participate through a stewardship organization.

(B) Adequate insurance and financial assurance for collection, handling, and disposal operations.

(8) Strategies for managing and reducing the life cycle impacts of covered products and packaging, including through redesign and how impacts will be tracked over time to show continual improvement.

(9) Education and outreach activities, including the following:

(A) Providing information to the general public on how to use the collection system for a covered product.

(B) Providing information regarding the collection system to collectors, including local governments if they are envisioned to be part of the collection system, retailers, and other interested parties.

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

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

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

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

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

Article 5. Reporting

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

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

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

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

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

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

Article 6. Financial Provisions

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

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

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

O

AMENDED IN SENATE JULY 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 478

Introduced by Assembly Member Chesbro

February 24, 2009

An act to amend ~~Section 38562 of the Health and Safety Code~~ *Sections 43020 and 43021 of, and to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of, the Public Resources Code,* relating to greenhouse gas emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 478, as amended, Chesbro. Greenhouse gas emissions: ~~solid~~ *recycling and* waste *management.*

Existing law, the California Global Warming Solutions Act of 2006, requires the State Air Resources Board to adopt greenhouse gas emissions limits and emission reduction measures by regulation. The state board is required to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020.

The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires the board to implement various state programs designed to encourage the reduction of solid waste.

This bill would require the ~~state board to consult with the~~ California Integrated Waste Management Board ~~in developing the regulations to include rules for the reduction of greenhouse gas emissions from solid waste reduction and recycling~~, *in consultation with the State Air Resources Board and the State Water Resources Control Board, to adopt rules and regulations relating to recycling and solid waste*

management to reduce greenhouse gas emissions, and would subject violators of these rules and regulations to civil and criminal penalties.

By creating a new crime, the bill would impose a state-mandated local program.

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: ~~no~~ *yes.*

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Since the enactment of the California Integrated Waste Management Act of 1989 (Division 30 (commencing with Section 40000) of the Public Resources Code), an extensive material collection and recycling infrastructure has been created, resulting in the achievement of a statewide diversion rate beyond 50 percent and the reduction of three million metric tons of carbon dioxide.

(b) All solid waste should be properly managed in order to minimize the generation of waste, maximize the diversion of solid waste from landfills, and manage all solid waste to its highest and best use, in accordance with the waste management hierarchy and in support of the California Global Warming Solutions Act of 2006.

(c) A comprehensive array of solid waste diversion programs will result in an actual reduction in disposal tonnage and greenhouse gas emissions.

(d) Although the state now leads the nation in solid waste reduction and recycling, the state continues to dispose of more than 40 million tons of solid waste each year, which is more than the national average on a per capita basis. Additional efforts must be undertaken to divert more solid waste from disposal in order to reduce the production of greenhouse gas emissions statewide.

(e) The anaerobic decomposition of solid waste in landfills produces methane, a greenhouse gas 21 times more potent than carbon dioxide.

(f) Greenhouse gas emissions can be substantially reduced by properly managing all materials to minimize the generation of waste, maximizing the diversion of solid waste from landfills, and capturing methane emissions to be put to their highest and best use.

(g) Reducing waste and materials at the source of generation, increased use of compost to benefit soils, coupled with increased recycling and extended producer responsibility, have the potential to reduce emissions, both within the state and within the connected global economy.

(h) According to the State Air Resources Board's Climate Change Scoping Plan, further implementation of aggressive high recycling and source reduction measures has the potential to offset as much as nine million metric tons of carbon dioxide by 2020.

SEC. 2. Chapter 20 (commencing with Section 42970) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 20. GREENHOUSE GAS REDUCTION MEASURES

42970. The board, in consultation with the State Air Resources Board and the state water board, shall adopt rules and regulations relating to recycling and sold waste management to reduce greenhouse gas emissions, including, but not limited to, the measures described in the plan adopted by the State Air Resources Board pursuant to Section 38561 of the Health and Safety Code.

42973. Any person who violates a rule or regulation adopted pursuant to Section 42970 shall be subject to the penalties described in Section 38580 of the Health and Safety Code. For the purposes of this section, "state board," as used in Section 38580 of the Health and Safety Code, means the board.

42975. This chapter does not limit the authority of the State Air Resources Board under Division 25.5 (commencing with Section 38500) of the Health and Safety Code.

SEC. 3. Section 43020 of the Public Resources Code is amended to read:

43020. The board shall adopt and revise regulations ~~which~~ *that* set forth minimum standards for solid waste handling, transfer,

composting, transformation, and disposal, in accordance with this division, and Section 117590 of, and Chapter 6.5 (commencing with Section 25100) of Division 20 of, the Health and Safety Code. ~~The~~ *Except as provided in Chapter 20 (commencing with Section 42970) of Part 3, the* board shall not include any requirements that are already under the authority of the State Air Resources Board for the prevention of air pollution or of the state water board for the prevention of water pollution.

SEC. 4. Section 43021 of the Public Resources Code is amended to read:

43021. Regulations shall include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities, but shall not include aspects of solid waste handling or disposal ~~which~~ *that* are solely of local concern or ~~which~~, *except as provided in Chapter 20 (commencing with Section 42970) of Part 3, that* are within the jurisdiction of the State Air Resources Board, air pollution control districts and air quality management districts, or the state water board or regional water boards.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 2. Section 38562 of the Health and Safety Code is amended to read:~~

~~38562. (a) On or before January 1, 2011, the state board shall adopt greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.~~

~~(b) In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:~~

~~(1) Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions.~~

~~(2) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.~~

~~(3) Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.~~

~~(4) Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.~~

~~(5) Consider cost-effectiveness of these regulations.~~

~~(6) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.~~

~~(7) Minimize the administrative burden of implementing and complying with these regulations.~~

~~(8) Minimize leakage.~~

~~(9) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.~~

~~(c) In furtherance of achieving the statewide greenhouse gas emissions limit, by January 1, 2011, the state board may adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions, applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources.~~

~~(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:~~

~~(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.~~

~~(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission~~

~~reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.~~

~~(3) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this division.~~

~~(c) The state board shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.~~

~~(f) The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.~~

~~(g) The state board shall consult with the California Integrated Waste Management Board in the development of the regulations to include rules for the reduction of greenhouse gas emissions from solid waste reduction and recycling.~~

~~(h) After January 1, 2011, the state board may revise regulations adopted pursuant to this section and adopt additional regulations to further the provisions of this division.~~

O

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE SEPTEMBER 2, 2009

AMENDED IN SENATE AUGUST 26, 2009

AMENDED IN SENATE JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 737

Introduced by ~~Committee on Environmental Safety and Toxic Materials (Chesbro (Chair), Miller (Vice Chair), Davis, Feuer, Monning, Ruskin, and Smyth)~~*Assembly Member Chesbro*

February 26, 2009

~~An act to amend Sections 25251, 25257, 116450, 116455, and 116470 of the Health and Safety Code, relating to environmental safety.~~ *An act to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, and 42926 of, to add Sections 40004, 41734.5, and 41780.01 to, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, the Public Resources Code, relating to solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 737, as amended, ~~Committee on Environmental Safety and Toxic Materials~~ *Chesbro*. ~~Environmental safety: public water systems: public notification: Toxics Information Clearinghouse.~~ *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 the board, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste generated is source reduced, recycled, or composted. The bill would prohibit the board from imposing any enforceable requirements against a local agency or a solid waste enterprise or that includes aspects of solid waste handling that are of local concern to implement this 75% diversion level.

(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 take specified action by January 1, 2011.

The bill would require a jurisdiction to implement a commercial recycling program meeting specified elements but would not require the jurisdiction to revise its source reduction and recycling element if the jurisdiction adds or expands a commercial recycling program to meet this requirement. By requiring a jurisdiction to implement a commercial recycling program, this bill would impose a state-mandated local program.

The bill would require the board to review a jurisdiction's compliance with the above requirement as a part of the board's review of a jurisdiction's compliance with the 50% solid waste diversion requirement.

(3) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the

element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the board to review an amendment to a nondisposal facility element. Existing law requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update all information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the board or comment and review by a local task force.

(4) Existing law requires each state agency to submit an annual report to the board summarizing its progress in reducing solid waste that is due on September 1 of each year starting in 2010.

This bill would change the due date to May 1 of each year.

(5) 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.

~~Existing law, known as the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.~~

~~Existing law requires every public water system to notify users when certain monitoring or other requirements have not been complied with, to notify customers when a failure to comply with a primary drinking water standard represents an imminent danger, to notify consumers of confirmation of detected contaminants, and to annually deliver a prescribed consumer confidence report to each consumer.~~

~~This bill would, in addition, require posting of the notices and reports on the public water system's Internet Web site, if the public water system maintains an Internet Web site. The bill would permit the public water system, except when issued a Tier 1 notice, as defined, to remove or supplement the posted information when certain conditions are met.~~

~~Existing law requires the Department of Toxic Substances Control to establish a Toxics Information Clearinghouse for the collection, maintenance, and distribution of specific chemical hazard traits and environmental and toxicological end-point data and defines "consumer product" for purposes of these provisions.~~

~~This bill would correct spelling errors and make other technical conforming changes to these provisions.~~

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

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

SECTION 1. (a) The Legislature finds and declares both of the following:

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

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

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

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

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

(3) The disposal of recyclable materials in the commercial solid waste stream prevents materials from circulating in the state economy to produce jobs and new products. Reducing the disposal of these materials will conserve landfill capacity and contribute to a reduction in greenhouse gas emissions and climate change.

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

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

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

SEC. 2. Section 40004 is added to the Public Resources Code, to read:

40004. (a) The Legislature finds and declares all of the following:

(1) Solid waste diversion and disposal reduction require the availability of adequate solid waste processing and composting capacity.

(2) The existing network of public and private solid waste processing and composting facilities provides a net environmental benefit to the communities served, and represents a valuable asset and resource of this state, one that must be sustained and expanded to provide the additional solid waste processing capacity that will be required to achieve the additional solid waste diversion targets expressed in Section 41780.01 and the commercial recycling requirement expressed in Section 42649.

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

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

(c) By setting a new solid waste diversion target in Section 41780.01 and new commercial waste recycling requirements in Section 42649, the Legislature does not intend to limit a right afforded to local governments pursuant to Section 40059, or to modify or abrogate in any manner the rights of a local government or solid waste enterprise with regard to a solid waste handling franchise or contract.

SEC. 3. Section 41730 of the Public Resources Code is amended to read:

41730. Except as provided in Section 41750.1, each city shall prepare, adopt, and, except for a city and county, transmit to the county in which the city is located a nondisposal facility element that includes all of the information required by this chapter and that is consistent with the implementation of a city source reduction and recycling element adopted pursuant to this part. ~~The nondisposal facility element and any amendments to the element may be appended to the city's source reduction and recycling element when that element is included in the countywide integrated waste management plan, prepared pursuant to Section 41750.~~ The nondisposal facility element and any ~~amendments~~ *updates* to the element shall not be subject to the approval of the county and the majority of cities with the majority of the population in the incorporated area.

SEC. 4. Section 41731 of the Public Resources Code is amended to read:

41731. Except as provided in Section 41750.1, each county shall prepare, adopt, and, except for a city and county, transmit to the cities located in the county a nondisposal facility element that includes all of the information required by this chapter and that is consistent with the implementation of a county source reduction

and recycling element adopted pursuant to this part. ~~The nondisposal facility element and any amendments to the element may be appended to the county's source reduction and recycling element when that element is included in the countywide integrated waste management plan prepared pursuant to Section 41750.~~ The nondisposal facility element and any ~~amendments~~ *updates* to the element shall not be subject to the approval of the majority of cities with the majority of the population in the incorporated area.

SEC. 5. Section 41734 of the Public Resources Code is amended to read:

41734. (a) (1) Prior to adopting ~~or amending~~ a nondisposal facility element, the city, county, or regional agency shall submit the element ~~or amendment~~ to the task force created pursuant to Section 40950 for review and comment.

(2) Prior to adopting ~~or amending~~ a regional agency nondisposal facility element, if the jurisdiction of the regional agency extends beyond the boundaries of a single county, the regional agency shall submit the element ~~or amendment~~ for review and comment to each task force created pursuant to Section 40950 of each county within the jurisdiction of the regional agency.

(b) Comments by the task force shall include an assessment of the regional impacts of potential diversion facilities and shall be submitted to the ~~city,~~ *city,* county, or regional agency and to the board within 90 days of the date of receipt of the nondisposal facility element for review and comment.

SEC. 6. Section 41734.5 is added to the Public Resources Code, to read:

41734.5. (a) Once a nondisposal facility element has been adopted, the city, county, or regional agency shall update all information required to be included in the nondisposal facility element, including, but not limited to, new information regarding existing and new, or proposed nondisposal facilities.

(b) Updates shall be provided to the board within 30 days of any change in information.

(c) Copies of the updated information shall also be provided to the local task force and shall be appended or otherwise added to the nondisposal facility element.

(d) The local task force shall not be required to review and comment on the updates to the nondisposal facility elements.

(e) Updates to the nondisposal facility elements are not subject to approval by the board.

SEC. 7. Section 41735 of the Public Resources Code is amended to read:

41735. (a) Notwithstanding Division 13 (commencing with Section 21000), the adoption or ~~amendment~~ *update* of a nondisposal facility element shall not be subject to environmental review.

(b) Local agencies may impose a fee on project proponents to fund their necessary and actual costs of preparing and approving ~~amendments~~ *updates* to nondisposal facility elements.

SEC. 8. Section 41736 of the Public Resources Code is amended to read:

41736. It is not the intent of the Legislature to require cities and counties to revise their source reduction and recycling elements to comply with the requirements of this chapter. ~~At the time of the five-year revision of the source reduction and recycling element, each city, county, and city and county shall incorporate the nondisposal facility element and any amendments thereto into the revised source reduction and recycling element.~~

SEC. 9. Section 41780.01 is added to the Public Resources Code, to read:

41780.01. On or before January 1, 2020, and annually thereafter, the board shall ensure that 75 percent of solid waste generated is source reduced, recycled, or composted. In implementing this section, the board shall not include any requirements that are enforceable against a local agency or solid waste enterprise, or that includes aspects of solid waste handling that are of local concern.

SEC. 10. Section 41800 of the Public Resources Code is amended to read:

41800. (a) Except as provided in subdivision (b), within 120 days from the date of receipt of a countywide or regional integrated waste management plan ~~which~~ *that* the board has determined to be complete, or any element of the plan ~~which~~ *that* the board has determined to be complete, the board shall determine whether the plan or element is in compliance with Article 2 (commencing with Section 40050) of Chapter 1 of Part 1, Chapter 2 (commencing with Section 41000), and Chapter 5 (commencing with Section

41750), and, based upon that determination, the board shall approve, conditionally approve, or disapprove the plan or element.

(b) (1) Within 120 days from the date of receipt of a city, county, or regional agency nondisposal facility element ~~, which~~ *that* the board has determined to be complete, ~~and within 60 days from the date of receipt of an amendment to a city, county, or regional agency nondisposal facility element,~~ the board shall determine whether the element ~~, which~~ *that* the board has determined to be complete ~~, or amendment~~ is in compliance with Chapter 4.5 (commencing with Section 41730) and Article 1 (commencing with Section 41780) of Chapter 6, and, based upon that determination, the board shall approve, conditionally approve, or disapprove the element ~~or amendment~~ within that time period.

(2) In reviewing the element ~~or amendment~~, the board shall:

(A) Not consider the estimated capacity of the facility or facilities in the element ~~or amendment~~ unless the board determines that this information is needed to determine whether the element ~~or amendment~~ meets the requirements of Article 1 (commencing with Section 41780) of Chapter 6.

(B) Recognize that individual facilities represent portions of local plans or programs that are designed to achieve the diversion requirements of Section 41780 and therefore may not arbitrarily require new or expanded diversion at proposed facilities.

(C) Not disapprove an element ~~or amendment~~ that includes a transfer station or other facility solely because the facility does not contribute towards the jurisdiction's efforts to comply with Section 41780.

(c) If the board does not act to approve, conditionally approve, or disapprove an element ~~which~~ *that* the board has determined to be complete within 120 days, ~~or an amendment which the board has determined to be complete within 60 days,~~ the board shall be deemed to have approved the element ~~or amendment~~.

SEC. 11. Chapter 12.8 (commencing with Section 42649) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 12.8. COMMERCIAL RECYCLING

42649. (a) It is the intent of the Legislature to require businesses to recycle solid waste that they generate.

(b) It is the intent of the Legislature to allow jurisdictions flexibility in developing and maintaining commercial recycling programs.

42649.1. For the purposes of this chapter, the following terms mean the following:

(a) "Business" means a commercial entity operated by a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling of five units or more.

(b) "Commercial waste generator" means a business subject to subdivision (a) of Section 42649.2.

(c) "Self-hauler" means a business that hauls its own waste rather than contracting for that service.

42649.2. (a) On or before January 1, 2011, 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, consistent with state or local laws or requirements, including a local ordinance or agreement, 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) A commercial waste generator shall take either of the following actions:

(1) 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.

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

42649.3. (a) Each jurisdiction shall implement a commercial recycling program appropriate for that jurisdiction designed to divert solid waste from businesses whether or not the jurisdiction has met the requirements of Section 41780.

(b) If a jurisdiction already has a commercial recycling program as one of its diversion elements that meets the requirements of this section, it shall not be required to implement a new or expanded commercial recycling program.

(c) The commercial recycling program shall be directed at a business, as defined in subdivision (a) of Section 42649.1, and may include, but is not limited to, any of the following:

(1) Implementing a mandatory commercial recycling policy or ordinance.

(2) Requiring a mandatory commercial recycling program through a franchise contract or agreement.

(3) Requiring all commercial recycling material to go through a mixed processing system that diverts material from disposal.

(d) The commercial recycling program shall include education and outreach to businesses.

(e) The commercial recycling program may include enforcement and monitoring provisions.

(f) The commercial recycling program may include certification requirements for self-haulers.

(g) The board shall review a jurisdiction's compliance with this section as part of the board's review required by Section 41825.

42649.4. (a) If a jurisdiction adds or expands a commercial recycling program to meet the requirements of Section 42649.3, the jurisdiction shall not be required to revise its source reduction and recycling element, or obtain the board's approval pursuant to Article 1 (commencing with Section 41800) of Chapter 7 of Part 1.

(b) If an addition or expansion of a jurisdiction's commercial recycling program is necessary, the jurisdiction shall update in its annual report required pursuant to Section 41821.

42649.5. (a) This chapter does not limit the authority of a local agency to adopt, implement, or enforce a local commercial recycling requirement 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.

(b) This chapter does not modify or abrogate in any manner any of the following:

(1) A franchise granted or extended by a city, county, or other local government agency.

(2) A contract, license, or permit to collect solid waste previously granted or extended by a city, county, or other local government agency.

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

SEC. 12. Section 42926 of the Public Resources Code is amended to read:

42926. (a) In addition to the information provided to the board pursuant to Section 12167.1 of the Public Contract Code, each state agency shall submit an annual report to the board summarizing its progress in reducing solid waste as required by Section 42921. The annual report shall be due on or before ~~September 1, 2009~~ *May 1, 2010*, and on or before ~~September~~ *May* 1 in each subsequent year. The information in this report shall encompass the previous calendar year.

(b) Each state agency's annual report to the board shall, at a minimum, include all of the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.

(3) A summary of progress made in implementing the integrated waste management plan.

(4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.

(5) Other information relevant to compliance with Section 42921.

(c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

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

All matter omitted in this version of the bill appears in the bill as amended in Senate, September 2, 2009 (JR11)

O

Assembly Bill No. 1173

Passed the Assembly September 11, 2009

Chief Clerk of the Assembly

Passed the Senate September 10, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 25210.9 of the Health and Safety Code, and to add Chapter 7.3 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, Huffman. Hazardous materials: fluorescent lamps: recycling.

The California Lighting Efficiency and Toxics Reduction Act prohibits, on and after January 1, 2010, except for certain specified circumstances, a person from manufacturing, selling, or offering for sale in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive, as specified.

This bill, on and after January 1, 2011, would prohibit the sale or offering for sale in this state of luminaires and lighting fixtures that are intended for general lighting purposes and contain preheat ballasts for operation of preheat linear fluorescent lamps.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, requires reduction, recycling, and reuse of 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 prohibit the distribution of moneys from energy efficiency investment funds or any other funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to any manufacturer for the purchase and distribution of compact fluorescent lamps, unless the compact fluorescent lamps meet certain specifications, and the manufacturer of the compact fluorescent lamps, individually, collectively with other manufacturers, or through a stewardship organization, has implemented a residential fluorescent lamp recycling program for each residential fluorescent lamp, as defined, sold by retailers selling the manufacturer's subsidized lamps. The bill would prohibit the distribution of moneys from funds generated

from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to a retailer, except moneys provided to a retailer through a manufacturer, unless the retailer has agreed to provide the public an in-store collection opportunity for the recycling of residential fluorescent lamps. The bill would prohibit manufacturers and retailers from using funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity for recycling activities.

The bill would require the manufacturers of residential fluorescent lamps sold in this state, individually, collectively with other manufacturers, or through a stewardship organization, to establish and maintain a residential fluorescent lamp recycling program containing specified elements within 90 days of receiving the funds generated from usage-based charges. The bill would require a manufacturer, individually, collectively with other manufacturers, or through a stewardship organization, to submit an annual report on the implementation of the residential fluorescent lamp recycling program. The bill would require the board to establish an administrative fee, not to exceed $5,000 per manufacturer and bearing a reasonable relationship to actual costs, to be paid by the manufacturers to cover the cost of reviewing and approving the annual report and of oversight and enforcement of the program.

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

SECTION 1. This act shall be known, and may be cited, as the California Fluorescent Lamp Toxics Reduction and Recycling Act.

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

(1) California policy, including the California Lighting Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes of 2007), has put California on a path of transition from incandescent lamps to more energy-efficient lighting, including substantially increased utilization of fluorescent lighting.

(2) Many existing lighting choices contain toxic materials. Most fluorescent lighting products contain mercury. California prohibits disposing of lighting products containing hazardous levels of metal in the solid waste stream. The hazardous material in waste lighting

products can be reduced and managed through recycling, but recycling opportunities are currently inconvenient or nonexistent for most consumers.

(3) Fluorescent lighting products delivering the same level of light at the same level of efficiency can have varying levels of mercury. The Department of General Services has adopted a procurement preference favoring low-mercury fluorescent lamps.

(4) In 2007, the Legislature enacted the California Lighting Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes of 2007), which directed the Department of Toxic Substances Control (DTSC) to convene a lighting task force to consider and make policy recommendations to the Legislature for designing a statewide collection program for end-of-life fluorescent lights. On September 1, 2008, the task force submitted recommendations to the Legislature on the need and options for a convenient statewide system for the collection and recycling of fluorescent lamps for residential generators.

(b) It is the intent of the Legislature to have an established system for the recycling of residential generated fluorescent lamps that is free and convenient for end users.

SEC. 3. Section 25210.9 of the Health and Safety Code is amended to read:

25210.9. (a) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not manufacture general purpose lights for sale in this state that contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(b) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not sell or offer for sale in this state a general purpose light under any of the following circumstances:

(1) The general purpose light being sold or offered for sale was manufactured on and after January 1, 2010, and contains levels of hazardous substances that would result in the prohibition of that general purpose light being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(2) The manufacturer of the general purpose light sold or being offered for sale fails to provide the documentation to the department required by subdivision (h).

(3) The manufacturer of the general purpose light being sold or offered for sale does not provide the certification required in subdivision (i).

(c) For the purposes of this section, "RoHS Directive" means Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, on the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities (13.2.2003 Official Journal of the European Union).

(d) The department shall determine the products covered by the RoHS Directive by reference to authoritative guidance published by the United Kingdom implementing the RoHS Directive in that country.

(e) (1) Except as provided in paragraphs (2) and (3), subdivisions (a), (b), (h), and (i) do not apply to high output and very high output linear fluorescent lamps greater than 32 millimeters in diameter and preheat linear fluorescent lamps.

(2) On or after January 1, 2014, the department shall determine, in consultation with companies that manufacture lamps specified in paragraph (1) in the United States, if those lamps should be subject to the requirements of subdivisions (a), (b), (h), and (i), taking into consideration changes in lamp design or manufacturing technology that will allow for the removal or reduction of mercury.

(3) On and after January 1, 2011, new luminaires and lighting fixtures intended for general lighting purposes and containing preheat ballasts for operation of preheat linear florescent lamps shall not be sold or offered for sale in this state.

(f) On and after January 1, 2012, for high intensity discharge lamps and compact fluorescent lamps greater than nine inches in length, subdivisions (a), (b), (h), and (i) shall be applicable.

(g) On and after January 1, 2014, for state-regulated general service incandescent lamps and enhanced spectrum lamps as defined in subdivision (k) of Section 1602 of Title 20 of the California Code of Regulations, subdivisions (a), (b), (h), and (i) shall be applicable.

(h) A manufacturer of general purpose lights sold or being offered for sale in California shall prepare and, at the request of the department, submit within 28 days of the date of the request, technical documentation or other information showing that the

manufacturer's general purpose lights sold or offered for sale in this state comply with the requirements of the RoHS Directive.

(i) A manufacturer of general purpose lights sold or being offered for sale in California shall provide, upon request, a certification to a person who sells or offers for sale that manufacturer's general purpose lights. The certification shall attest that the general purpose lights do not contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in California. Alternatively, the manufacturer may display the certification required by this subdivision prominently on the shipping container or on the packaging of general purpose lights.

(j) The department may adopt regulations to implement and administer this article.

SEC. 4. Chapter 7.3 (commencing with Section 42420) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 7.3. FLUORESCENT LAMPS

42420. For the purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the California Integrated Waste Management Board.

(b) "Consumer" means a purchaser or owner of residential fluorescent lamps, excluding a business, corporation, limited partnership, nonprofit organization, or governmental entity.

(c) "Manufacturer" means any person who, on or after the effective date of this act, and regardless of the selling technique used, including by means of remote sale, does one or more of the following:

(1) Manufactures fluorescent lamps under its own brand for sale in this state.

(2) Manufactures fluorescent lamps for sale in this state without affixing a brand.

(3) Resells in this state fluorescent lamps produced by other suppliers under its own brand or label.

(4) Imports or exports fluorescent lamps into the United States that are sold in this state. If a company from which an importer purchases the merchandise has a United States presence, assets,

or both, that company, and not the importer, shall be deemed to be the manufacturer.

(d) "Residential fluorescent lamps" means compact fluorescent lamps and any other fluorescent lamp intended for residential use.

(e) "Residential fluorescent lamp recycling program" means a system for the collection, transportation, recycling, and proper disposal of fluorescent lamps that is financed, as well as managed or provided, by a manufacturer receiving funds pursuant to the program described in Section 42421, individually, collectively with other manufacturers, or through a stewardship organization.

(f) "Retailer" means a person that sells subsidized fluorescent lamps intended for residential use in the state to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means.

(g) "Stewardship organization" means an organization that implements and administers the residential fluorescent lamp recycling program.

42421. (a) (1) Moneys from funds generated from usage-based charges on electricity distribution, including, but not limited to, energy efficiency investment funds, that are provided by California's electrical corporations and local publicly owned electric utilities, as defined in Sections 218 and 224.3 of the Public Utilities Code, respectively, shall not be distributed to any manufacturer for the purchase and distribution of compact fluorescent lamps, unless all of the following conditions exist:

(A) All compact fluorescent lamps purchased are qualified as the most recent ENERGY STAR version listed on the ENERGY STAR Internet Web site, and contain no more mercury than the amount referenced in the most recent ENERGY STAR version, or four milligrams of mercury for any basic lamp of up to 25 watts, whichever is less.

(B) The manufacturer, individually, collectively with other manufacturers, or through a stewardship organization, establishes and maintains a comprehensive residential fluorescent lamp recycling program for all residential lamps sold by retailers selling the manufacturer's subsidized lamps, to manage end-of-life residential fluorescent lamps in an environmentally sound fashion, including collection, transportation, recycling, and proper disposal.

Collection of end-of-life residential fluorescent lamps may occur through a variety of collection methodologies and locations.

(C) Packaging for the subsidized compact fluorescent lamps sold in this state shall have a label informing consumers that disposing of fluorescent lamps in the solid waste stream is prohibited and providing access to information on opportunities for proper recycling.

(2) The manufacturer, individually, collectively with other manufacturers, or through a stewardship organization, may contract with a retailer for in-store or out-of-store collection of end-of-life residential fluorescent lamps.

(b) Moneys from funds generated from usage-based charges on electricity distribution, including, but not limited to, energy efficiency investment funds that are provided by California's electrical corporations and local publicly owned electric utilities, as defined in Sections 218 and 224.3 of the Public Utilities Code, respectively, shall not be distributed from a utility directly to a retailer for a residential fluorescent lamp program, unless the retailer has agreed to provide the public with a convenient in-store collection opportunity for the recycling of residential fluorescent lamps. This requirement shall not apply to those moneys provided to a retailer through a manufacturer.

(c) Moneys from funds generated from usage-based charges on electricity distribution, including, but not limited to, energy efficiency investment funds, that are provided by California's electrical corporations and local publicly owned electric utilities, as defined in Sections 218 and 224.3 of the Public Utilities Code, respectively, shall not be used to fund manufacturer or retailer recycling activities required under this chapter.

42422. (a) To meet the requirement of subparagraph (B) of paragraph (1) of subdivision (a) of Section 42421, a manufacturer of residential fluorescent lamps sold in this state shall individually, collectively with other manufacturers, or through a stewardship organization, establish and maintain a residential fluorescent lamp recycling program, as defined in subdivision (e) of Section 42420, in accordance with this section within 90 days of receiving funds generated from usage-based charges on electricity distribution.

(b) The program shall demonstrate sufficient funding.

(c) The program shall be free and convenient to all consumers.

(d) The program shall include education and outreach efforts to promote the proper management of end-of-life fluorescent lamps. Education and outreach efforts may include, but are not limited to, any of the following:

(1) Developing and updating as necessary, educational and other outreach materials aimed at retailers of residential fluorescent lamps. Those materials shall be made available to the retailers. The materials may include, but are not limited to, one or more of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both. Written materials shall include information on the prohibition of improper disposal of residential fluorescent lamps and recycling opportunities.

(C) Advertising or other promotional materials, or both, that include references to residential fluorescent lamp recycling opportunities.

(2) Strategizing with retail sellers of electricity to encourage their participation in the collection and proper management of end-of-life fluorescent lamps. These strategies may include the inclusion of an educational insert in their customers' utility bills.

(3) Encourage in-store collection by retailers and other outlets.

(e) Within one year of implementing a residential fluorescent lamp recycling program, and annually thereafter, a manufacturer of residential fluorescent lamps, individually, collectively with other manufacturers, or through a stewardship organization, shall submit an annual report to the board describing its residential fluorescent lamp recovery efforts. The report shall be posted on the manufacturer's Internet Web site. The annual report shall include all of the following:

(1) A list of all manufacturers participating in the program.

(2) The total number of end-of-life fluorescent lamps collected in California during the previous year under the residential fluorescent lamp recycling program implemented by that manufacturer.

(3) A complete listing of all participating collection sites.

(4) A description of the methods used to collect, transport, recycle, and dispose of end-of-life fluorescent lamps.

(5) A description of the outreach strategies employed to increase participation and collection rates.

(6) Examples of the outreach and educational materials used.

(7) The total cost of implementing the residential fluorescent lamp recycling program by the following categories:

(A) Outreach and education.

(B) Administration.

(C) Collection, transportation, recycling, and disposal.

42423. (a) The board shall review the annual report required pursuant to Section 42422 and within 90 days of receipt shall adopt a finding of compliance or noncompliance with the provisions of this act.

(b) Prior to adopting a finding of compliance or noncompliance, the board shall notify manufacturers that it believes are not in compliance with the conditions set forth in paragraph (1) of subdivision (a) of Section 42421 and provide the manufacturer with an opportunity to cure its noncompliance within 30 days or a meaningful opportunity to be heard as to why it believes the finding of noncompliance is in error. If the manufacturer does not persuade the board that it is in compliance after this process, the board shall post on its Internet Web site a notice listing manufacturers that are not in compliance.

(c) Manufacturers that have been listed pursuant to subdivision (b), but can demonstrate to the satisfaction of the board that they are in compliance with the conditions set forth in paragraph (1) of subdivision (a) of Section 42421, may request a certification letter from the board to that effect. The letter shall constitute compliance with those conditions.

(d) The board shall enforce this chapter.

(e) The board shall establish administrative fees to be paid by manufacturers receiving funds pursuant to the program described in Section 42421 to cover the cost of reviewing and approving the annual report and the cost of oversight and enforcement of the residential fluorescent lamp recycling program. The fee shall not exceed five thousand dollars ($5,000) per manufacturer and shall bear a reasonable relationship to actual costs.

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1329

Introduced by Assembly ~~Member Brownley~~ *Members Brownley and Chesbro*
(Principal coauthor: Senator Simitian)
(Coauthor: Senator Hancock)

February 27, 2009

~~An act to add Part 9 (commencing with Section 49750) to Division 30 of the Public Resources Code, relating to product management.~~ *An act to add Section 25 to Chapter 21 of the Statutes of 2009, relating to waste management.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, Brownley. ~~Product management: single-use recyclable packaging containers.~~ *Waste management.*

Existing law creates the California Integrated Waste Management Board with specified powers and duties.

Chapter 21 of the Statutes of 2009, which will go into effect on January 1, 2010, will abolish the California Integrated Waste Management Board and transfer its duties and responsibilities to the Department of Resources Recycling and Recovery, which Chapter 21 of the Statutes of 2009 will create in the Natural Resources Agency, under the direction of an executive officer known as the Director of

Resources Recycling and Recovery. Chapter 21 of the Statutes of 2009 will authorize the director to accept on behalf of the department federal grants, and will require the grants to be deposited in the Special Deposit Fund, which is continuously appropriated.

Under existing law, the Department of Conservation administers the California Beverage Container Recycling and Litter Reduction Act.

Chapter 21 of the Statutes of 2009 will transfer those duties to the Division of Recycling that Chapter 21 of the Statutes of 2009 will establish within the newly created Department of Resources Recycling and Recovery.

Existing law establishes the Office of Education and the Environment in the California Integrated Waste Management Board.

Chapter 21 of the Statutes of 2009 will transfer the Office of Education and the Environment to the California Environmental Protection Agency.

This bill would delay the operative date of the changes made by Chapter 21 of the Statutes of 2009 to January 1, 2011.

~~The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, prohibits a person from selling a food or beverage container in this state that is labeled with the term "compostable" or "marine degradable," unless the food or beverage container meets certain requirements.~~

~~This bill, on and after July 1, 2014, would prohibit a retail establishment or retailer, as defined, from selling, distributing, or importing in commerce a single-use recyclable packaging container, as defined, that is comprised predominantly of polyvinyl chloride plastic resin.~~

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

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

SECTION. 1. Section 25 is added to Chapter 21 of the Statutes of 2009, to read:

SEC. 25. This act shall become operative on January 1, 2011.

~~SECTION 1. Part 9 (commencing with Section 49750) is added to Division 30 of the Public Resources Code, to read:~~

~~PART 9. PRODUCT MANAGEMENT~~

~~CHAPTER 1. DEFINITIONS~~

~~CHAPTER 2. POWERS AND DUTIES~~

~~CHAPTER 3. ENFORCEMENT AND PENALTIES~~

~~CHAPTER 4. PLASTIC RECYCLING CONTAMINATING CONTAINERS~~

~~49750. The Legislature finds and declares all of the following:~~

~~(a) It is the intent of the Legislature to increase plastic recycling in California.~~

~~(b) Polyvinyl chloride plastic resin is a potent contaminant in recycling of commonly recycled plastics.~~

~~(c) Containers made from polyvinyl chloride plastic resin look identical to containers made from commonly recycled plastic resins and cannot be efficiently sorted out from the recycling stream.~~

~~(d) Removing polyvinyl chloride plastic resin from container types that are present in plastic recycling will increase plastic recycling, strengthen California's recycling infrastructure, and increase material diversion from landfills.~~

~~49751. For the purposes of this chapter, the following terms have the following meanings:~~

~~(a) "Retail establishment" or "retailer" means an individual, partnership, corporation, association, or other legal relationship that engages in the business of selling goods to retail buyers.~~

~~(b) (1) "Single-use recyclable packaging container" means a container that meets all of the following conditions:~~

~~(A) A container used to contain, protect, or hold a consumer good, food, or beverage until that item is opened or consumed, after which point the container serves no other function and is intended to be discarded.~~

~~(B) The container has the shape of a bottle, clamshell, sack, cup, bowl, shrink or stretch wrap, or other packaging shape.~~

~~(2) "Single-use recyclable packaging container" does not include any of the following:~~

~~(A) A container used solely in transportation and not made available to consumers.~~

~~(B) A container that is used solely for the transportation and protection of a building material, including, but not limited to, windows and related products used in residential construction.~~

~~(C) A container that encloses a dangerous drug, as defined in Section 4022 of the Business and Professions Code, or a container that encloses an over-the-counter human or veterinary drug, including, but not limited to, a drug as defined in Section 109925 of the Health and Safety Code or as defined in Section 321 of Title 21 of the federal Food, Drug, and Cosmetic Act.~~

~~(D) A container in which a medical device, as defined in Section 109920 of the Health and Safety Code, is enclosed.~~

~~(E) A container that is used to contain a petroleum-based product, including a fuel, lubricant, fuel additive, or other petroleum-based products used on or in motor vehicles.~~

~~49752. On and after July 1, 2014, a retail establishment or retailer shall not sell, distribute, or import in commerce a single-use recyclable packaging container that is comprised predominantly of polyvinyl chloride plastic resin.~~

O

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1343

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Ma and Torlakson)

February 27, 2009

An act to add Chapter 5 (commencing with Section 48700) to Part 7 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1343, as amended, Huffman. Solid waste: architectural paint: recovery program.

Existing law prohibits the disposal of latex paint in the land or waters of the state and authorizes certain persons to accept latex paint for recycling.

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 an architectural paint recovery program that would be enforced by the board. On or before January 1, 2011, a manufacturer or designated stewardship organization would be required to submit to the board an architectural paint stewardship plan to develop and implement a recovery program to reduce the generation of postconsumer paint, promote the reuse of postconsumer architectural

paint, and manage the end-of-life of postconsumer architectural paint, in an environmentally sound fashion, including collection, transportation, processing, and disposal. The plan would be required to contain specified elements of an architectural paint stewardship program, including, but not limited to, an architectural paint stewardship assessment, approved by the board, on each container of architectural paint sold in this state. The bill would require the plan to be reviewed and approved by the board, and if the board does not act on the plan within 90 days of receipt, it would be deemed adopted.

This bill would require, on or before July 1, 2011, or two months after a plan is approved by the board, the manufacturer or stewardship organization to implement the architectural paint stewardship program described in the approved plan.

The bill would also prohibit a manufacturer or retailer from selling or offering for sale architectural paint to any person in this state, unless the manufacturer is in compliance with this act. The prohibition would be in effect on the 120th day after a notice listing the manufacturer as not being in compliance is posted on the board's Internet Web site.

This bill would authorize the board to administratively impose civil penalties for violations of the act. The bill would require manufacturers to submit a report to the board by July 1, 2012, and each year thereafter, describing their paint recovery efforts.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Architectural paint is a priority waste type based on its high volume, subsequent cost to manage, and high potential for increased recovery, reuse, and recycling.

(b) The Department of Toxic Substances Control has deemed latex paint as presumed hazardous in California and oil-based paint is characteristically hazardous, making both latex and oil-based paints prohibited from disposal in California.

(c) The California Integrated Management Waste Board estimates that architectural paint, both latex and oil-based, comprises the largest volume of waste product collected at publicly operated household hazardous waste facilities, 35 percent of total

household hazardous waste collected in California in the 2007–08 fiscal year.

(d) The Department of Toxic Substances Control estimates that the cost to manage waste architectural paint in California is the single largest cost to local governments in the household hazardous waste system.

(e) The board estimates that for the 2007–08 fiscal year only 5 percent of California households utilized a household hazardous waste program.

(f) Architectural paint is convenient to buy and inconvenient to recycle or legally dispose of in California.

(g) There has been an ongoing debate on how to better manage leftover architectural paint since 1989 when the board heard an item on options to fund a collection and management system.

(h) A national dialogue has been ongoing since 2002, yet has not resulted in any architectural paint collection or financial relief to California local governments.

(i) California has the largest number of latex paint recyclers in the country: Amazon Environmental (Riverside), Kelly-Moore (Sacramento), and Visions (Sacramento).

(j) State procurement of recycled paint is required. The state agency "buy recycled" mandates are not being met, and there is no enforcement mechanism, resulting in only 2 percent compliance reporting to the board.

~~(k) The board adopted an Overall Framework for an Extended Producer Responsibility (EPR) guidance document as a policy priority in January 2008.~~

~~(*l*) The EPR framework recognizes that the responsibility for the end-of-life management of discarded products and materials rests primarily with the producers, thereby incorporating costs of product collection, recycling, and disposal into the total product costs so as to have a reduced impact on human health and the environment.~~

SEC. 2. Chapter 5 (commencing with Section 48700) is added to Part 7 of Division 30 of the Public Resources Code, to read:

CHAPTER 5. ARCHITECTURAL PAINT RECOVERY PROGRAM

48700. The purpose of the architectural paint recovery program established pursuant to this chapter is to require paint

manufacturers to develop and implement a program to collect, transport, and process postconsumer paint to reduce the costs and environmental impacts of the disposal of postconsumer paint in this state.

48701. For purposes of this chapter, the following terms have the following meanings:

(a) "Architectural paint" means interior and exterior architectural coatings, sold in containers of five gallons or less for commercial or homeowner use, but does not include *aerosol spray paint or* architectural coatings purchased for industrial or original equipment manufacturer use.

(b) "Board" means the California Integrated Waste Management Board.

(c) "Consumer" means a purchaser or owner of architectural paint, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity.

(d) "Distributor" means a person that has a contractual relationship with one or more manufacturers to market and sell architectural paint to retailers.

(e) "Manufacturer" means a manufacturer of architectural paint.

(f) "Postconsumer paint" means architectural paint not used by the purchaser.

(g) "Retailer" means a person that sells architectural paint in the state to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means.

(h) "Stewardship organization" means ~~the~~ *a* nonprofit organization created by the manufacturers to implement the architectural paint stewardship program described in Section 48703.

48702. (a) A manufacturer of architectural paint sold in this state shall, individually or through a stewardship organization, submit an architectural paint stewardship plan to the board to develop and implement a recovery program to reduce the generation of postconsumer architectural paint, promote the reuse of postconsumer architectural paint, and manage the end-of-life of postconsumer architectural paint, in an environmentally sound fashion, including collection, transportation, processing, and disposal.

(b) (1) A manufacturer or retailer shall not sell or offer for sale in this state architectural paint to any person in this state unless the manufacturer is in compliance with this chapter.

(2) The sales prohibition in paragraph (1) shall be effective on the 120th day after the notice described in subdivision (c) lists the manufacturer on the board's Internet Web site and shall remain in effect until the manufacturer is no longer listed on the board's Internet Web site.

(c) *(1)* On July 1, 2011, and on January 1 and July 1 annually thereafter, the board shall post a notice on its Internet Web site listing manufacturers that are not in compliance with this chapter.

(2) Manufacturers that have been listed on the board's Internet Web site pursuant to this section, but can demonstrate to the satisfaction of the board that they are in compliance with this chapter before the next notice is required pursuant to this section, may request a certification letter from the board to that effect. The letter shall constitute compliance with this chapter.

(d) A wholesaler or a retailer that distributes or sells architectural paint shall monitor the board's Internet Web site to determine if the sale of a manufacturer's architectural paint is in compliance with this chapter.

48703. (a) On or before January 1, 2011, a manufacturer or designated stewardship organization shall submit an architectural paint stewardship plan to the board.

(b) (1) The plan shall demonstrate sufficient funding for the architectural paint stewardship program as described in the plan, including a funding mechanism for securing and dispersing funds to cover administrative, operational, and capital costs, including the assessment of charges on architectural paint sold by manufacturers in this state.

(2) The funding mechanism shall provide for an architectural paint stewardship assessment for each container of architectural paint sold by manufacturers in this state and the assessment shall be remitted to the stewardship organization, if applicable.

(3) The architectural paint stewardship assessment shall be added to the cost of all architectural paint sold to California retailers and distributors, and each California retailer or distributor shall add the assessment to the purchase price of all architectural paint sold in the state.

(4) The architectural paint stewardship assessment shall be approved by the board as part of the plan, and shall be sufficient to recover, but not exceed, the cost of the architectural paint stewardship program.

(c) The plan shall address the coordination of the architectural paint stewardship program with local household hazardous waste programs, including contracting for the costs for architectural paint collected by the household hazardous waste programs, where practical.

(d) The plan shall include goals established by the manufacturer or stewardship organization to reduce the generation of postconsumer paint, to promote the reuse of postconsumer paint, and for the proper end-of-life management of postconsumer paint, including recovery and recycling of postconsumer paint, as practical, based on current household hazardous waste program information. The goals may be revised by the manufacturer or stewardship organization based on the information collected for the annual report.

~~(d)~~

(e) The plan shall include consumer, contractor, and retailer education and outreach efforts to promote the source reduction and recycling of architectural paint. This information may include, but is not limited to, developing, and updating as necessary, educational and other outreach materials aimed at retailers of architectural paint. These materials shall be made available to the retailers. These materials may include, but are not limited to, one or more of the following:

(1) Signage that is prominently displayed and easily visible to the consumer.

(2) Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both. Written materials shall include information on the prohibition of improper disposal of architectural paint.

(3) Advertising or other promotional materials, or both, that include references to architectural paint recycling opportunities.

~~(e)~~

(f) On or before July 1, 2011, or two months after a plan is approved pursuant to Section 48704, the manufacturer or stewardship organization shall implement the architectural paint stewardship program described in the approved plan.

48704. (a) The board shall review and approve the architectural paint stewardship plan within 90 days of receipt. A plan not acted upon by the board within 90 days shall be deemed adopted.

(b) The board shall review the annual report required pursuant to Section 48705 and within 90 days of receipt shall adopt a finding of compliance or noncompliance with the provisions of this act.

(c) The board shall enforce this chapter.

(d) The stewardship organization shall pay the board administrative fees in the amount of ____ dollars ($____) when the plan is submitted for review and approval and thereafter an annual administrative fee of 0.05 percent of the architectural paint stewardship program costs as reported under Section 48705.

(e) (1) A civil penalty may be administratively imposed by the board on any person who violates this chapter in an amount of one thousand dollars ($1,000) for each violation.

(2) Any person who intentionally, knowingly, or negligently violates this chapter may be assessed a civil penalty by the board of up to ten thousand dollars ($10,000) for each violation.

(3) Any penalties collected by the board shall be used to offset the cost of the review and approval architectural paint stewardship plans and annual reports and of enforcement activities.

48705. By July 1, 2012, and each year thereafter, a manufacturer of architectural paint sold in this state shall, individually or through a representative stewardship organization, submit a report to the board describing its architectural paint recovery efforts. At a minimum, the report shall include all of the following:

(a) The total volume of architectural paint sold in this state during the preceding calendar year.

(b) The total volume of postconsumer architectural paint recovered in this state during the preceding calendar year.

(c) A description of methods used to collect, transport, and process postconsumer architectural paint in this state.

(d) The total cost of implementing the architectural paint stewardship program.

(e) An evaluation of how the architectural paint stewardship program's funding mechanism operated.

(f) Examples of educational materials that were provided to consumers the first year and any changes to those materials in subsequent years.

~~48706. Any action taken by a manufacturer or representative stewardship organization regarding the cost recovery system or the collecting, transporting, or processing of postconsumer architectural paint, pursuant to the requirements of this chapter and only to the extent necessary to plan and implement the cost recovery system, collection system, or recycling system, is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or any other state law relating to antitrust, regulation of trade, or regulation of commerce.~~

O

AMENDED IN SENATE MAY 28, 2009

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~~ *40142 and 41780.01* 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)~~

(2) 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)~~

(3) 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 contains elements for refuse service providers. A 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 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.

The bill would provide that the board shall adopt a model ordinance and may provide the grants and loans only after a specified increase in fees for solid waste disposal is effective and generating funds.

~~(5)~~

(4) 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)~~

(5) 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)~~

(6) 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)~~

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

~~(9)~~

(8) 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:

SECTION 1. The Legislature finds and declares all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~SEC. 6.~~

SEC. 5. Chapter 12.8 (commencing with Section 42649) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 12.8. COMMERCIAL RECYCLING

42649. (a) 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~~ *all* 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.

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

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

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

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

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

~~SEC. 7.~~

SEC. 6. Section 44009 of the Public Resources Code is amended to read:

44009. (a) (1) Except as provided in paragraph (4), the board shall, in writing, 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 the proposed solid waste facilities permit submitted under Section 44007, as part of the complete and correct permit package that conforms with this division and the regulations adopted pursuant to this division, as determined by the board, after consideration of the issues in this section.

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

(3) If the board fails to concur in or object to the proposed permit in writing within the 60-day period specified in paragraph (1) or the 90-day period specified in paragraph (4), whichever is

applicable, the board shall be deemed to have concurred in the issuance of the proposed permit by operation of law.

(4) If the board does not have a full 60 days to review a proposed permit because of the board's schedule of meetings, the board shall object, in writing, to the issuance, modification, or revision of the permit within 90 days from the date of the board's receipt of the proposed solid waste facilities permit submitted pursuant to Section 44007, as part of a complete and correct permit package that conforms with this division and the regulations adopted pursuant to this division, as determined by the board.

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

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

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

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

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

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

~~SEC. 8.~~

SEC. 7. Section 45014 of the Public Resources Code is amended to read:

45014. (a) Upon the failure of a person to comply with a final order issued by a local enforcement agency or the board, the Attorney General, upon request of the board, shall petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining the person from continuing to violate the order or complaint.

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

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

~~SEC. 9.~~

SEC. 8. Section 45024 of the Public Resources Code is amended to read:

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

~~SEC. 10.~~

SEC. 9. Section 48000 of the Public Resources Code is amended to read:

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

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

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

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

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

~~SEC. 11.~~

SEC. 10. Chapter 2.7 (commencing with Section 48300) is added to Part 7 of Division 30 of the Public Resources Code, to read:

CHAPTER 2.7. ILLEGAL DUMPING PREVENTION GRANT AND LOAN PROGRAM

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

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

48301. (a) The board may expend moneys in the Integrated Waste Management Account in the Integrated Waste Management Fund and other funds as appropriate, upon appropriation by the Legislature, for purposes of providing grants and loans pursuant to Section 48300. *The board may provide the grants and loans only after the fee increase pursuant to paragraph (1) of subdivision (c) of Section 48000 is effective and generating funds.*

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

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

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

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

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

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

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

~~SEC. 12.~~

SEC. 11. Chapter 8 (commencing with Section 49700) is added to Part 8 of Division 30 of the Public Resources Code, to read:

CHAPTER 8. REFUSE SERVICE PROVIDER MODEL ORDINANCE PROGRAM

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

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

(b) "Refuse service provider" means a person that, for compensation, accepts or collects solid waste incidental to cleanup or delivery services, and transports that solid waste from a residential, commercial, or industrial location, for the purpose of subsequent recycling, transfer, or disposal of that solid waste. "Refuse service provider" does not include a local agency or franchise hauler that transports solid waste in accordance with a franchise agreement with a local agency.

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

49702. (a) On or before January 1, 2011, the board shall adopt a model ordinance that may include, but shall not be limited to, the following elements:

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

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

(3) Penalties for noncompliance and other enforcement mechanisms.

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

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

(6) Local funding mechanisms.

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

(c) A local agency may, but is not required to, adopt the model ordinance described in this section.

(d) The board shall adopt the model ordinance described in subdivision (a) only after the fee increase pursuant to paragraph

(1) of subdivision (c) of Section 48000 is effective and generating funds.

~~SEC. 13.~~

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O

Senate Bill No. 402

Passed the Senate September 11, 2009

_____

Secretary of the Senate

Passed the Assembly September 11, 2009

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 14560, 14571.2, 14571.8, 14572, 14574, 14575, 14581, 14585, and 43021 of, to add Sections 14515.3, 14526.8, 14571.6.5, 14571.6.6, and 14571.6.7 to, and to amend, repeal, and add Section 14504 of, the Public Resources Code, relating to recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 402, Wolk. Recycling: California redemption value.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires that every beverage container sold or offered for sale in this state is required to have a minimum refund value. A distributor is required to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Conservation and the department is required to deposit those amounts in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, administrative fees to processors, and a reserve for contingencies. A violation of the act is a crime.

"Beverage" is defined, for purposes of the act, to include, among other things, beer and other malt beverages, wine and distilled spirit coolers, carbonated mineral and soda waters, noncarbonated fruit drinks, and vegetable juices, in liquid form that are intended for human consumption, but excludes from that definition vegetable drinks in beverage containers of more than 16 ounces. The act also excludes, from the definition of beverage, any product sold in a container that is not an aluminum beverage container, a glass container, a plastic beverage container, or a bimetal container.

This bill would, as of July 1, 2010, revise the term beverage to include vegetable, fruit, nut, grain, or soy drinks or juices or noncarbonated drinks that contain any percentage of those drinks or juices, and would delete the requirement that a vegetable, drink, subject to the act, be sold in a container of 16 ounces or less. The bill would delete the exclusion from the term beverage, for a product that is not sold in the above-specified types of containers. The bill would additionally exclude from the definition a beverage

in a flexible foil, plastic pouch, or aseptic container delivering 7 or less fluid ounces.

Since the additional payments for the plastic beverage containers and other beverage containers that this bill would make subject to the act would be deposited in a continuously appropriated fund, the bill would make an appropriation. The bill would also impose a state-mandated local program by creating new crimes relating to beverage containers.

(2) Existing law requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation for each beverage container sold or transferred for deposit in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, administrative fees to processors, and a reserve for contingencies.

This bill would raise the amount of the redemption payment paid by the distributor and the refund value, as specified. Since the increased payments for the beverage containers that are subject to the act would be deposited in a continuously appropriated fund, the bill would make an appropriation.

Existing law requires that a distributor pay the redemption payment not later than the last day of the 3rd month following the sale and authorizes a distributor, upon the approval of the department, to elect to make a single annual payment if the distributor meets specified conditions and notifies the department of its intent to make annual redemption payments.

This bill would require all beverage distributors to make the redemption payment no later than the last day of the 2nd month following the sale of the beverages. This bill would revise the conditions under which a distributor would be authorized to make a single annual payment. The bill would also authorize a distributor to withhold payment of redemption payments until the next payment period when the distributor has not received payment for beverage containers on which redemption payments are owed.

(3) Existing law requires certified recycling centers to accept any empty beverage container from a consumer or dropoff or collection program and pay the refund value, which can be based on weight.

This bill would provide, with exceptions, that a recycling center that does not receive handling fees is not required to redeem empty

beverage containers of a container type not included in the program before July 1, 2009.

(4) The department is authorized to make specified expenditures from the moneys remaining in the fund after the moneys for certain purposes have been set aside.

This bill would increase the amount of moneys for grants to certified community conservation corps for beverage container litter reduction programs and recycling programs.

The bill would suspend, for the 2009–10 fiscal year, expenditures for grants for beverage container recycling and litter reduction programs and a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

The bill would eliminate funds the department is authorized to expend for grants for specified beverage container recycling and litter reduction programs.

The bill would require the department, if there are any reductions in certain expenditures due to insufficient funds, on or after July 1, 2009, to provide, subject to the availability of funds, retroactive full funding, on or before July 1, 2010.

The bill would require the department, for any reduction in expenditures that resulted in a reduction in the amount of funds available to make processing payments and an increase in processing fees paid by manufacturers, to credit beverage manufacturers for any overpayment of processing fees, subject to the availability of funds.

(5) Existing law requires the department to continuously assist dealers and recyclers to establish certified recycling centers within in each convenience zone.

This bill would provide assistance and incentives to reduce the number of zones not serviced by a certified recycling center.

(6) Existing law requires that regulations governing solid waste facilities include standards for design, operation, maintenance, and ultimate reuse of solid waste facilities.

This bill would prohibit those regulations from including any requirements for processors or recyclers, as defined, where the amount of outgoing solid waste is 15% or less of the total amount of incoming material received by weight calculated on a monthly basis after reasonable adjustment for the weight of moisture, and the amount of putrescible wastes in the outgoing solid waste shall

be 3% or less of the amount of incoming material received by weight calculated on a monthly basis.

(7) The bill would delete obsolete provisions and make conforming changes.

(8) 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.

Appropriation: yes.

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

SECTION 1. It is the intent of the Legislature that projects under contract be fully completed for the thirty-five million dollars ($35,000,000) in market development grants awarded under Section 14851 of the Public Resources Code during the 2008–09 fiscal year for which partial or complete encumbrance of funds has taken place by September 1, 2009.

SEC. 2. Section 14504 of the Public Resources Code is amended to read:

14504. (a) Except as provided in subdivision (b), "beverage" means any of the following products if those products are in liquid, ready-to-drink form, and are intended for human consumption:

(1) Beer and other malt beverages.

(2) Wine and distilled spirit coolers.

(3) Carbonated water, including soda and carbonated mineral water.

(4) Noncarbonated water, including noncarbonated mineral water.

(5) Carbonated soft drinks.

(6) Noncarbonated soft drinks and "sport" drinks.

(7) Except as provided in paragraph (4) of subdivision (b), noncarbonated fruit drinks that contain any percentage of fruit juice.

(8) Coffee and tea drinks.

(9) Carbonated fruit drinks.

(10) Vegetable juice in beverage containers of 16 ounces or less.

(b) "Beverage" does not include any of the following:

(1) Any product sold in a container that is not an aluminum beverage container, a glass container, a plastic beverage container, or a bimetal container.

(2) Wine, or wine from which alcohol has been removed, in whole or in part, whether or not sparkling or carbonated.

(3) Milk, medical food, or infant formula.

(4) One hundred percent fruit juice in containers that are 46 ounces or more in volume.

(c) For purposes of this section, the following definitions shall apply:

(1) "Infant formula" means any liquid food described or sold as an alternative for human milk for the feeding of infants.

(2) (A) "Medical food" means a food or beverage that is formulated to be consumed, or administered enterally under the supervision of a physician, and that is intended for specific dietary management of diseases or health conditions for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

(B) A "medical food" is a specially formulated and processed product, for the partial or exclusive feeding of a patient by means of oral intake or enteral feeding by tube, and is not a naturally occurring foodstuff used in its natural state.

(C) "Medical food" includes any product that meets the definition of "medical food" in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360ee (b)(3)).

(3) "Noncarbonated soft drink" means a nonalcoholic, noncarbonated naturally or artificially flavored water containing sugar or sweetener or trace amounts of various elements from both natural and synthetic sources.

(d) This section shall remain in effect only until July 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2010, deletes or extends that date.

SEC. 3. Section 14504 is added to the Public Resources Code, to read:

14504. (a) Except as provided in subdivision (b), "beverage" means any of the following products if those products are in liquid, ready-to-drink form, and are intended for human consumption:

(1) Beer and other malt beverages.

(2) Wine and distilled spirit coolers.

(3) Carbonated water, including soda and carbonated mineral water.

(4) Noncarbonated water, including noncarbonated mineral water.

(5) Carbonated soft drinks.

(6) Noncarbonated soft drinks and "sport" drinks.

(7) Vegetable, fruit, nut, grain, or soy drinks or juices, or noncarbonated drinks that contain any percentage of those drinks or juices.

(8) Coffee and tea drinks.

(9) Carbonated fruit drinks.

(b) "Beverage" does not include any of the following:

(1) Wine, or wine from which alcohol has been removed, in whole or in part, whether or not sparkling or carbonated.

(2) Milk, medical food, or infant formula.

(3) Beverages in a flexible foil, plastic pouch, or aseptic container that delivers seven or less fluid ounces of beverage in the container.

(c) For purposes of this section, the following definitions shall apply:

(1) "Infant formula" means any liquid food described or sold as an alternative for human milk for the feeding of infants.

(2) (A) "Medical food" means a food or beverage that is formulated to be consumed, or administered enterally under the supervision of a physician, and that is intended for specific dietary management of diseases or health conditions for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

(B) A "medical food" is a specially formulated and processed product, for the partial or exclusive feeding of a patient by means of oral intake or enteral feeding by tube, and is not a naturally occurring foodstuff used in its natural state.

(C) "Medical food" includes any product that meets the definition of "medical food" in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360ee(b)(3)).

(3) "Noncarbonated soft drink" means a nonalcoholic, noncarbonated naturally or artificially flavored water containing sugar or sweetener or trace amounts of various elements from both natural and synthetic sources.

(d) This section shall become operative on July 1, 2010.

SEC. 4. Section 14515.3 is added to the Public Resources Code, to read:

14515.3. "Paper beverage container" means a paperboard carton, gable-top, aseptic, poly-coated paperboard, or other beverage container made primarily of paper.

SEC. 5. Section 14526.8 is added to the Public Resources Code, to read:

14526.8. "Unserved convenience zone" means a convenience zone where there is not in operation a certified recycling center or other location that meets the requirements of subdivision (a) of Section 14571, and where the zone is not exempt pursuant to Section 14571.8.

SEC. 6. Section 14560 of the Public Resources Code is amended to read:

14560. (a) (1) Except as provided in paragraph (4), a beverage distributor shall pay the department, for deposit into the fund, a redemption payment of five cents ($0.05) for a beverage container sold or offered for sale in this state by the distributor, on or after January 1, 2010.

(2) A beverage container with a capacity of 20 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments paid pursuant to paragraph (1).

(3) For beverage containers sold on or after January 1, 2010, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 20 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05) and the amount of redemption payment and refund value for a beverage container with a capacity of 20 fluid ounces or more shall be ten cents ($0.10).

(4) For beverage containers sold on or after July 1, 2007, and before January 1, 2010, the amount of the redemption payment and refund value for a beverage container with a capacity of less than 24 fluid ounces sold or offered for sale in this state by a dealer shall equal five cents ($0.05) and the amount of redemption payment and refund value for a beverage container with a capacity of 24 fluid ounces or more shall be ten cents ($0.10).

(5) This section does not discharge the responsibility of a beverage distributor to pay the department the appropriate redemption payment as this section read on January 1, 2009, for a beverage container sold before January 1, 2010.

(b) (1) The department shall periodically review the fund to ensure that there are adequate funds in the fund to pay refund values and other disbursements required by this division.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the refund values and necessary disbursements required by this division, the department shall immediately notify the Legislature of the need for urgent legislative action.

(3) On or before 180 days, but not less than 90 days, after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the fund as necessary, according to the procedure set forth in Section 14581, to ensure that there are adequate funds in the fund to pay the refund values and other disbursements required by this division.

(c) This section does not apply to a refillable beverage container.

SEC. 7. Section 14571.2 of the Public Resources Code is amended to read:

14571.2. (a) The department shall continuously assist dealers and recyclers to establish certified recycling locations within each convenience zone. This assistance includes, but is not limited to, providing information to companies and organizations interested in operating recycling in the convenience zone; providing dealers with names of prospective recyclers for the convenience zone and providing recyclers with the names of dealers in need of a recycler for a convenience zone; providing dealers and recyclers with information on grants, advertising funds, and other resources available; and providing recyclers with advice regarding appearance and image of the recycling center and the efficient handling and transportation of recycled beverage containers.

(b) It shall be the goal and responsibility of the department to provide assistance and incentives to reduce the number of unserved zones to less than 5 percent of total zones by January 1, 2011.

(c) (1) Notwithstanding Section 14571.6, for any zone that was unserved on July 1, 2009, the obligation of dealers in that zone to redeem empty beverage containers in the store shall be suspended until December 31, 2010.

(2) Notwithstanding Section 14585, any dealer that chooses to redeem empty beverage containers inside the store shall be eligible to receive handling fees pursuant to Section 14585 and a processor shall pay refund values, administrative costs, and processing

payments to the recycling center pursuant to subdivision (a) of Section 14573.5 in the same manner as a recycling center operating in compliance with Section 14571.

SEC. 8. Section 14571.6.5 is added to the Public Resources Code, to read:

14571.6.5. (a) Notwithstanding Section 14571, the department may allow the operator of a certified recycling center to be open for business for less than 30 hours per week, but not less than 20 hours per week, if the certified recycling center is located in a convenience zone that has been unserved for at least six continuous months, and is identified by the department as an unserved convenience zone.

(b) A recycling center that is authorized by the department pursuant to subdivision (a) shall be eligible to apply for handling fees pursuant to Section 14585, and a processor shall pay refund values, administrative costs, and processing payments to the recycling center pursuant to subdivision (a) of Section 14573.5 in the same manner as a recycling center operating in compliance with Section 14571.

(c) The department shall authorize not more than 120 recycling centers in unserved convenience zones pursuant to this section.

SEC. 9. Section 14571.6.6 is added to the Public Resources Code, to read:

14571.6.6. (a) Notwithstanding Sections 14571 and 14585, the department may authorize the operator of a certified recycling center to be eligible to apply for the payment of handling fees if the recycling center is located in a convenience zone that has been unserved for at least six continuous months, but is not located in a supermarket parking lot, and the convenience zone is identified by the department as an unserved convenience zone.

(b) The department shall authorize not more than 120 recycling centers in unserved convenience zones pursuant to this section.

SEC. 10. Section 14571.6.7 is added to the Public Resources Code, to read:

14571.6.7. (a) Notwithstanding Sections 14585, the department may authorize the operator of a certified recycling center to be eligible for a handling fee equivalent to 120 percent of the current level for a period of 24 months if the recycling center is located in a convenience zone that has been unserved for at least six

continuous months and the convenience zone is identified by the department as an unserved convenience zone.

(b) The department shall authorize not more than 120 recycling centers in unserved convenience zones pursuant to this section.

SEC. 11. Section 14571.8 of the Public Resources Code is amended to read:

14571.8. (a) No lease entered into by a dealer after January 1, 1987, may contain a leasehold restriction that prohibits or results in the prohibition of the establishment of a recycling location.

(b) The director may grant an exemption from the requirements of Section 14571 for an individual convenience zone only after the department solicits public testimony on whether or not to provide an exemption from Section 14571. The solicitation process shall be designed by the department to ensure that operators of recycling centers, dealers, and members of the public in the jurisdiction affected by the proposed exemption are aware of the proposed exemption. After evaluation of the testimony and any field review conducted, the department shall base a decision to exempt a convenience zone on one, or any combination, of the following factors:

(1) The exemption will not significantly decrease the ability of consumers to conveniently return beverage containers for the refund value to a certified recycling center redeeming all material types.

(2) Except as provided in paragraph (5), the nearest certified recycling center is within a reasonable distance of the convenience zone being considered from exemption.

(3) The convenience zone is in the area of a curbside recycling program that meets the criteria specified in Section 14509.5.

(4) The requirements of Section 14571 cannot be met in a particular convenience zone due to local zoning or the dealer's leasehold restrictions for leases in effect on January 1, 1987, and the local zoning or leasehold restrictions are not within the authority of the department and the dealer. However, any lease executed after January 1, 1987, shall meet the requirements specified in subdivision (a).

(5) The convenience zone has redeemed less than 60,000 containers per month for the prior 12 months and, notwithstanding paragraph (2), a certified recycling center is located within one mile of the convenience zone that is the subject of the exemption.

(c) The department shall review each convenience zone in which a certified recycling center was not located on January 1, 1996, to determine the eligibility of the convenience zone under the exemption criteria specified in subdivision (b).

(d) The total number of exemptions granted by the director under this section shall not exceed 40 percent of the total number of convenience zones identified pursuant to this section.

(e) The department may, on its own motion, or upon petition by any interested person, revoke a convenience zone exemption if either of the following occurs:

(1) The condition or conditions that caused the convenience zone to be exempt no longer exists, and the department determines that the criteria for an exemption specified in this section are not presently applicable to the convenience zone.

(2) The department determines that the convenience zone exemption was granted due to an administrative error.

(f) If an exemption is revoked and a recycling center is not certified and operational in the convenience zone, the department shall, within 10 days of the date of the decision to revoke, serve all dealers in the convenience zone with the notice specified in subdivision (a) of Section 14571.7.

(g) An exemption shall not be revoked when a recycling center becomes certified and operational within an exempt convenience zone unless either of the events specified in paragraphs (1) and (2) of subdivision (e) occurs.

SEC. 12. Section 14572 of the Public Resources Code is amended to read:

14572. (a) Except as provided in subdivision (b), a certified recycling center shall accept from any consumer or dropoff or collection program any empty beverage container, and shall pay to the consumer or dropoff or collection program the refund value of the beverage container. The center may pay the refund value based on the weight of returned containers.

(b) Any recycling center or processor which was in existence on January 1, 1986, and which refused, as of January 1, 1986, to accept at a particular location a certain type of empty beverage container may continue to refuse to accept at the location the type or types of empty beverage containers that the recycling center or processor refused to accept as of January 1, 1986. Any certified recycling center which refuses, pursuant to this subdivision, to

accept a certain type or types of empty beverage containers is not eligible to receive handling fees unless the center agrees to accept all types of empty beverage containers and is a supermarket site. This subdivision does not preclude the certified recycling center from receiving a handling fee for beverage containers redeemed at supermarket sites which do accept all types of containers.

(c) The department shall develop procedures by which recycling centers and processors which meet the criteria of subdivision (b) may recertify to change the material types accepted.

(d) (1) Only a certified recycling center may pay the refund value to consumers or dropoff or collection programs. No person shall pay a noncertified recycler for empty beverage containers an amount which exceeds the current scrap value for each container type, which shall be determined in the following manner:

(A) For a plastic or glass beverage container, the current scrap value shall be determined by the department.

(B) For an aluminum beverage container, the current scrap value shall be not greater than the amount paid to the processor for that aluminum beverage container, on the date the container was purchased, by the location of end use, as defined in the regulations of the department.

(2) No person may receive or retain, for empty beverage containers which come from out of state, any refund values, processing payments, or administrative fees for which a claim is made to the department against the fund.

(3) Paragraph (1) does not affect curbside programs under contract with cities or counties.

(e) (1) Notwithstanding the provisions of this section, except as provided in paragraph (2), a certified recycling center that does not receive handling fees shall not be required to redeem empty beverage containers of a container type not included in the program before July 1, 2009.

(2) If the department determines that there is a willing purchaser of an empty beverage container type offering a scrap price that when combined with the processing payment is equal to or greater than the cost of recycling, a certified recycling center may not claim the exemption in paragraph (1).

SEC. 13. Section 14574 of the Public Resources Code is amended to read:

14574. (a) (1) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1.5 percent for the distributor's administrative costs.

(2) The payment made by a distributor shall be made not later than the last day of the second month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the distributor may make a single annual payment of redemption payments, if the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

(4) A distributor may withhold payment of redemption payments when the distributor has not received payment for beverage containers on which redemption payments are owed pursuant to this division until the next payment period.

SEC. 14. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.

(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except

for the initial calculation made pursuant to subdivision (d), the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraph (2) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) Except as provided in paragraph (2), for calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b). The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(2) On and after January 1, 2010, the department shall use the most recently published, measured actual costs of recycling for a specific beverage material type if the department determines the number of beverage containers for that material type that is returned for recycling pursuant to Section 14551, based on the most recently published calendar year number of beverage containers returned for recycling, is less than 5 percent of the total number of beverage containers returned for recycling for all material types. The department shall determine the actual recycling cost to be used for calculating processing payments for those beverage containers in the following manner:

(A) The department shall adjust the costs of recycling that material type every second year by the percentage change in the most recently measured cost of recycling HDPE plastic beverage containers, as determined by the department. The department shall

use the percentage change in costs of recycling HDPE plastic beverage containers for this purpose, even if HDPE plastic beverage containers are less than 5 percent of the total volume of returned beverage containers.

(B) The department shall adjust the recycling costs annually for that material type to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(3) Notwithstanding the provisions of this section, for the 2010 and 2011 calendar years only, the processing payment for each paper beverage container recycled shall be the equivalent of one hundred thirty-five dollars ($135) per ton and the processing fee for each paper beverage container sold shall be the equivalent of 35 percent of one hundred thirty-five dollars ($135) per ton.

(4) (A) Notwithstanding the provisions of this section, for the 2010 and 2011 fiscal years only, for the purposes of calculating the processing payments and processing fees for glass containers, the recycling cost shall not exceed one hundred five dollars and ninety-six cents ($105.96) per ton, the scrap value shall not be less than six dollars and fifty-three cents ($6.53) per ton, and the processing payment shall not be greater than the difference, ninety-nine dollars and forty-three cents ($99.43) per ton.

(B) Notwithstanding the provisions of this section, for the 2010 and 2011 fiscal years only, the processing fee resulting from the calculation in subparagraph (A) for glass containers shall not exceed 2.28 mills ($0.00228) for every container sold. This rate shall not increase in the event of subsequent loans to or borrowing by the General Fund.

(d) Except as specified in subdivision (e), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(e) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

(C) Twelve percent of the processing payment for a container type with a recycling rate equal to or greater than 60 percent, but less than 65 percent.

(D) Thirteen percent of the processing payment for a container type with a recycling rate equal to or greater than 55 percent, but less than 60 percent.

(E) Fourteen percent of the processing payment for a container type with a recycling rate equal to or greater than 50 percent, but less than 55 percent.

(F) Fifteen percent of the processing payment for a container type with a recycling rate equal to or greater than 45 percent, but less than 50 percent.

(G) Eighteen percent of the processing payment for a container type with a recycling rate equal to or greater than 40 percent, but less than 45 percent.

(H) Twenty percent of the processing payment for a container type with a recycling rate equal to or greater than 30 percent, but less than 40 percent.

(I) Sixty-five percent of the processing payment for a container type with a recycling rate less than 30 percent.

(2) The department shall calculate the recycling rate for purposes of paragraph (1) based on the 12-month period ending on June 30 that directly precedes the date of the January 1 processing fee determination.

(f) Not more than once every three months, the department may make an adjustment in the amount of the processing payment established pursuant to this section notwithstanding any change in the amount of the processing fee established pursuant to this section, for any beverage container, if the department makes the following determinations:

(1) The statewide scrap value paid by processors for the material type for the most recent available 12-month period directly preceding the quarter in which the processing payment is to be adjusted is 5 percent more or 5 percent less than the average scrap value used as the basis for the processing payment currently in effect.

(2) Funds are available in the processing fee account for the material type.

(3) Adjusting the processing payment is necessary to further the objectives of this division.

(g) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail, return receipt requested, to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), if a beverage manufacturer displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the beverage manufacturer may make a single annual payment of processing fees, if the beverage manufacturer meets either of the following conditions:

(i) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than ten thousand dollars ($10,000).

(ii) If the redemption payment and refund value is increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than fifteen thousand dollars ($15,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year for which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The processor shall pay the recycling center the entire processing payment representing the actual costs and financial return incurred by the recycling center, as specified in subdivision (b).

(h) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in subdivisions (d) and (e), by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled.

(i) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(j) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the glass processing fee account to make the reduction pursuant to this subdivision or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the PET processing fee account to make the reduction pursuant to this subdivision, the department shall use these surplus funds in the respective processing fee accounts

in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

(1) The department shall reduce the glass or PET processing fee amount pursuant to this subdivision in addition to any reduction for which the glass or PET beverage container qualifies under subdivision (e).

(2) The department shall determine the processing fee reduction by dividing two million dollars ($2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred to a distributor during the previous calendar year, based upon the latest available data.

SEC. 15. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

(1) For each fiscal year commencing July 1, 2008, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars ($15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Except as provided in subparagraph (C) twenty-two million dollars ($22,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having

operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(C) For the 2009–10 fiscal year only, the total amount expended pursuant to this paragraph shall include the eight million two hundred fifty thousand dollars ($8,250,000) allocated in the 2009–10 annual Budget Act. This subparagraph shall not be subject to any proportional reduction implemented pursuant to subdivision (d).

(4) (A) Ten million five hundred thousand dollars ($10,500,000) may be expended annually for payments of five thousand dollars ($5,000) to cities and ten thousand dollars ($10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education-promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city

and county is not eligible to receive the funds for that funding cycle.

(F) (i) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(ii) The department may withhold all or a portion of the payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction, resulting in an unserved zone.

(5) One million five hundred thousand dollars ($1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs. The expenditure of these funds is suspended for the 2009–10 fiscal year.

(6) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to Section 14575. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee are calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited all of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to subdivisions (d) and (e) of Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount needed to make processing payments pursuant to subdivision (b) of Section 14575.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments and reducing processing fees, pursuant to Section 14575.

(7) Up to five million dollars ($5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers. The expenditure of these funds is suspended for the 2009–10 fiscal year.

(8) Up to nine million dollars ($9,000,000) may be expended annually by the department for quality incentive payments for empty glass beverage containers only pursuant to Section 14549.1.

(9) Up to seventeen million dollars ($17,000,000) may be expended annually by the department, until January 1, 2012, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, including, but not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Research and development to provide high-quality materials that are substantially free of contamination.

(E) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code "3," "4," "5," "6," or "7," pursuant to Section 18015.

(F) Upgrading or retrofitting of existing facilities that process or use postconsumer beverage container material, to increase the amount of postconsumer beverage container material being used or to meet or exceed standards set in state environmental laws, regulations, and policies.

(G) Construction of new facilities that process or use postconsumer beverage container material, including, but not limited to, aseptic beverage container materials, and that will meet or exceed standards set in state environmental laws, regulations, and policies.

(H) Payments to manufacturers located in this state that utilize material from the types of recycled beverage containers that are generated in this state and that were not subject to this division

before January 1, 2010, but that became subject to this division on and after January 1, 2010.

(10) Up to ten million dollars ($10,000,000) may be expended annually by the department for the payment of recycling incentive payments pursuant to Section 14549.7 until payments for eligible beverage containers redeemed or collected for recycling on or before December 31, 2009, have been paid.

(11) Up to eight million dollars ($8,000,000) may be expended annually by the department for market development payments for empty plastic beverage containers pursuant to Section 14549.2, until January 1, 2015.

(b) The amount that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (6) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers to advise the department on the most cost-effective and efficient

method of the expenditure of the funds for that education and information campaign.

(f) (1) Notwithstanding any other provision of law, the expenditures pursuant to this section shall apply retroactively to July 1, 2009.

(2) Notwithstanding any other provision of law, for any reduction in expenditures specified in this section, made pursuant to subdivision (d), on and after July 1, 2009, subject to the availability of funds, the department shall provide retroactive full funding, on or before July 1, 2010.

(3) Notwithstanding any other provision of law, for any reduction in expenditures made pursuant to subdivision (d), on and after July 1, 2009, that resulted in a reduction in the amount of funds available to make processing payments, pursuant to paragraph (6) of subdivision (a), and an increase in processing fees pursuant to Section 14575, subject to the availability of funds, the department shall credit beverage manufacturers for any overpayment of processing fees.

SEC. 16. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.

(2) (A) To be eligible for any handling fee, a supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler shall redeem not less than 60,000 beverage containers, during the calendar month in which the handling fee is claimed or have redeemed not less than an average of 60,000 beverage containers per month during the previous 12 months.

(B) Subparagraph (A) shall not apply on and after July 1, 2008.

(3) (A) A beverage container with a capacity of 20 fluid ounces or more shall be considered as two beverage containers for purposes of determining the eligibility percentage, any handling fee calculations, and payments.

(B) Subparagraph (A) shall not apply on and after July 1, 2012.

(4) The department shall determine the number of eligible containers per site for which a handling fee will be paid in the following manner:

(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.

(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.

(5) (A) From the effective date of the statute enacted by Assembly Bill 3056 of the 2005–06 Regular Session to June 30, 2008, inclusive, the department shall pay a handling fee of 1.8 cents ($0.018) per eligible beverage container, as determined pursuant to paragraph (4).

(B) On and after July 1, 2008, the department shall pay a handling fee per eligible container in the amount determined pursuant to subdivision (f).

(6) (A) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site, nonprofit convenience zone recycler, or rural region recycler shall not exceed two thousand three hundred dollars ($2,300) per month.

(B) Subparagraph (A) shall not apply on and after July 1, 2008.

(7) If the eligible volume in any given month would result in handling fee payments that exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their entire eligible monthly volume before sites with lower eligible monthly volumes receive any handling fees.

(8) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator of that supermarket site nonprofit convenience zone recycler, or rural region recycler shall be eligible to apply for handling fees for that site for a period of three months following the date of the closure of the dealer.

(B) Every supermarket site operator, nonprofit convenience zone recycler, or rural region recycler shall promptly notify the department of the closure of the dealer where the supermarket site, nonprofit convenience zone recycler, or rural region recycler is located.

(C) Notwithstanding subparagraph (A), any operator who fails to provide notification to the department pursuant to subparagraph (B) shall not be eligible to apply for handling fees.

(b) The department may allocate the amount authorized for expenditure for the payment of handling fees pursuant to paragraph (1) of subdivision (a) of Section 14581 on a monthly basis and may carry over any unexpended monthly allocation to a subsequent month or months. However, unexpended monthly allocations shall not be carried over to a subsequent fiscal year for the purpose of paying handling fees but may be carried over for any other purpose pursuant to Section 14581.

(c) (1) The department shall not make handling fee payments to more than one certified recycling center in a convenience zone. If a dealer is located in more than one convenience zone, the department shall offer a single handling fee payment to a supermarket site located at that dealer. This handling fee payment shall not be split between the affected zones. The department shall stop making handling fee payments if another recycling center certifies to operate within the convenience zone without receiving payments pursuant to this section, if the department monitors the performance of the other recycling center for 60 days and determines that the recycling center is in compliance with this division. Any recycling center that locates in a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fee payments, is ineligible to receive any handling fee payments in that convenience zone.

(2) The department shall offer a single handling fee payment to a rural region recycler located anywhere inside a convenience

zone, if that convenience zone is not served by another certified recycling center and the rural region recycler does either of the following:

(A) Operates a minimum of 30 hours per week in one convenience zone.

(B) Serves two or more convenience zones, and meets all of the following criteria:

(i) Is the only certified recycler within each convenience zone.

(ii) Is open and operating at least eight hours per week in each convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(d) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler does not receive an excessive handling fee.

(e) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of calculating volumes and making handling fee payments.

(f) (1) On or before January 1, 2008, and every two years thereafter, the department shall conduct a survey pursuant to this subdivision of a statistically significant sample of certified recycling centers that receive handling fee payments to determine the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers. The department shall conduct these cost surveys in conjunction with the cost surveys performed by the department pursuant to subdivision (b) of Section 14575 to determine processing payments and processing fees. The department shall include, in determining the actual costs, only those allowable costs contained in the regulations adopted pursuant to this division that are used by the department to conduct cost surveys pursuant to subdivision (b) of Section 14575.

(2) Using the information obtained pursuant to paragraph (1), the department shall then determine the statewide weighted average cost incurred for the redemption of empty beverage containers, per empty beverage container, at recycling centers that receive handling fees.

(3) On and after July 1, 2008, the department shall determine the amount of the handling fee to be paid for each empty beverage container by subtracting the amount of the statewide weighted average cost per container to redeem empty beverage containers by recycling centers that do not receive handling fees from the amount of the statewide weighted average cost per container determined pursuant to paragraph (2).

(4) The department shall adjust the statewide average cost determined pursuant to paragraph (2) for each beverage container annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(5) The cost information collected pursuant to this section at recycling centers that receive handling fees shall not be used in the calculation of the processing payments determined pursuant to Section 14575.

SEC. 17. Section 43021 of the Public Resources Code is amended to read:

43021. (a) Regulations shall include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities, but shall not include aspects of solid waste handling or disposal which are solely of local concern or which are within the jurisdiction of the State Air Resources Board, air pollution control districts and air quality management districts, or the state water board or regional water boards.

(b) The regulations shall not include any requirements for processors or recyclers, as defined in Sections 14518 and 14519.5, where the amount of outgoing solid waste is 15 percent or less of the total amount of incoming material received by weight calculated on a monthly basis after reasonable adjustment for the weight of moisture, and the amount of putrescible wastes in the outgoing solid waste is 3 percent or less of the amount of incoming material received by weight calculated on a monthly basis.

SEC. 18. For the 2009–10 fiscal year, twenty million dollars ($20,000,000) shall revert to the Department of Conservation from grants made pursuant to Section 14581 of the Public Resources Code in the 2008–09 fiscal year or before that have not been encumbered, expended, or liquidated. The department shall expend the twenty million dollars ($20,000,000) reverted to the department

by this section during the 2009–10 fiscal year for the purposes of Section 14581 of the Public Resources Code.

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

Senate Bill No. 546

Passed the Senate September 11, 2009

_____

Secretary of the Senate

Passed the Assembly September 11, 2009

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2009, at _____ o'clock ____M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 25250.29 and 25250.30 to the Health and Safety Code, and 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, 48651.5, and 48654 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, Lowenthal. Used 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 revise the definition of "used oil hauler" 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, among other things. 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 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 $0.065 and $0.26, respectively through December 31, 2013, and on and after January 1, 2014, those charges would be $0.06 for every quart and $0.24 for every gallon. The charges for finished lubricant containing at least 70% rerefined base lubricant would be revised to $0.03 for every quart and to $0.12 for every gallon.

(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, 2013, to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, to coordinate a comprehensive life cycle analysis of the used lubricating and industrial oil management process, evaluate the used oil management policies on used oil collection rates, and by January 1, 2014, report to the Legislature its findings.

The bill would require the board to increase the recycling incentive to not less than $0.10 per quart, except for used oil generated by a certified used oil collection center and an industrial generator, and, on and after January 1, 2014, to set the rerefining incentive at not less than $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 ½ 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 and to evaluate the used oil management policies, thereby making an appropriation. The bill would increase the amount available for payments for implementation of local used oil collection programs to $11,000,000, or if that amount is not available, the bill would require the board to determine the amount pursuant to a specified formula, 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 requirements for out-of-state used oil recycling facilities seeking incentive payments, including requirements to register with the board and 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 authorize a facility registered or certified under this provision to enter into a testing and reporting agreement with the Department of Toxic Substances Control and agree to reimburse the department for its full reasonable costs associated with the agreement. The bill 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.

(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 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 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. Because a violation of the used oil requirements would be a crime, the bill would impose a state-mandated local program.

(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.

Appropriation: yes.

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

SECTION 1. Section 25250.29 is added to the Health and Safety Code, to read:

25250.29. (a) Except as provided in subdivisions (b) and (g), before a load of used oil is shipped to a transfer facility, recycling facility, or facility located out of the state, the used oil shall be tested and analyzed by a laboratory accredited by the State Department of Public Health pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101, to ensure that the used oil meets all of the following characteristics:

(1) A flashpoint above 100 degrees Fahrenheit.

(2) A polychlorinated biphenyls (PCB) concentration of less than 5 ppm.

(3) A concentration of total halogens of 1000 ppm or less, unless the presumption in subclause (I) of clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 25250.1 has been

rebutted pursuant to subclause (II) of clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 25250.1.

(b) The testing and analysis required pursuant to subdivision (a) shall be accomplished by a registered hazardous waste transporter prior to acceptance at a transfer facility or recycling facility, or shipment out of the state, except the transporter is not required to perform the testing and analysis if the transporter can do any of the following:

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

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

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

(3) If shipped to an out-of-state facility, provide documentation certifying that the out-of-state facility receiving the used oil has entered into an agreement with the department that meets the requirements of Section 25250.30.

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

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

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

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

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

(f) 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 shall submit a report, on or before March 1 of each year, to the department, containing all of the following information for the preceding year:

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

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

(3) Any other information that the department may require to ensure that the same data gathered for used oil managed within the state is gathered for used oil shipped out of state.

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

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

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

SEC. 2. Section 25250.30 is added to the Health and Safety Code, to read:

25250.30. A used oil recycling facility located out of state that is registered or certified in accordance with Section 48662 of the Public Resources Code may enter into a testing and reporting agreement with the department. The agreement shall include a requirement on the out-of-state used oil recycling facility that is equivalent to the current testing and testing-related reporting requirements of a used oil recycling facility permit. As part of the agreement, the out-of-state used oil recycling facility shall agree to reimburse the department's full reasonable costs associated with the agreement, including any inspections the department deems necessary to ensure compliance with this provision.

SEC. 3. Section 48100 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(A) The Integrated Waste Management Fund.

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

(C) The California Used Oil Recycling Fund.

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

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

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

SEC. 4. Section 48620.2 is added to the Public Resources Code, to read:

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

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

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

(3) Processed into a material that has a performance quality level suitable for use in a finished lubricant.

(b) A producer of a rerefined base stock shall provide a purchaser of that base stock with information that certifies that the rerefined base stock is rerefined oil, as that term is defined by subdivision (a). Any rerefined base stock that does not comply with subdivision (a) shall not be sold as rerefined oil and is subject to all applicable hazard, personal protection, and risk communication requirements until subsequent testing demonstrates compliance with subdivision (a).

SEC. 5. Section 48623 of the Public Resources Code is amended to read:

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

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

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

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

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

(c) Development and implementation of an information and education program to promote safe and proper used oil collection and treatment methods, methods to reduce used oil generation, and advances in new and existing technologies, including, but not limited to, use of rerefined oil in automotive and industrial lubricants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48650. (a) Except as provided in subdivisions (c) and (d), every oil manufacturer shall pay to the board, on or before the last day of the month following each quarter, an amount equal to six and one-half cents ($0.065) for every quart, or twenty-six cents ($0.26) for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state in that quarter. For lubricating oil sold by weight, a weight to volume conversion factor of 7.5 pounds per gallon shall be used to determine the fee. Except as provided in subdivision (b), no payment is required for oil that meets any of the following:

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

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

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

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

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

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

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

(c) Every manufacturer of finished lubricant containing at least 70 percent rerefined base lubricant shall pay to the board an amount equal to three cents ($0.03) for every quart or twelve cents ($0.12) for every gallon sold or transferred in the state or imported into the state, pursuant to the schedule established in subdivision (a).

(d) Except as provided in subdivision (c), on and after January 1, 2014, every oil manufacturer shall pay to the board an amount equal to six cents ($0.06) for every quart or twenty-four cents ($0.24) for every gallon of lubricating oil sold or transferred in the state or imported into the state, pursuant to the schedule established in subdivision (a).

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

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

(1) The used lubricating oil is transported by a used oil hauler to a used oil storage facility or to a used oil transfer facility for the purpose of producing recycled oil as defined in Section 48620.

(2) The used lubricating oil is transported by a used oil hauler directly to an in-state used oil recycling facility that is certified pursuant to subdivision (a) of Section 48662, or to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to subdivision (c) of Section 48662, for the purpose of producing recycled oil as defined in Section 48620.

(b) A used oil storage facility or a used oil transfer facility that accepts used oil pursuant to paragraph (1) of subdivision (a) shall cause that oil to be transported by a used oil hauler to a used oil recycling facility certified pursuant to subdivision (a) of Section 48662 or to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to subdivision (c) of Section 48662 for the purpose of producing recycled oil as defined in Section 48620.

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

48651.5. (a) Effective January 1, 2013, the board, with regard to promoting the recycling of used lubricating oil into rerefined oil, shall pay a rerefining incentive pursuant to subdivision (b) of Section 48652 if all of the following conditions are met:

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

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

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

(b) (1) To further promote the safe management of used oil, and to review the changes in policy and program enacted by the Legislature in Senate Bill No. 546 of the 2009 Regular Session, without implying that any further changes are necessary and warranted, the board, using existing financial resources, shall do all of the following:

(A) Contract with a third-party consultant with recognized expertise in life cycle assessments to coordinate a comprehensive

life cycle analysis of the used lubricating and industrial oil management process, from generation through collection, transportation, and reuse alternatives.

(B) Solicit input from representatives of all used oil stakeholders in defining the scope and design of the life cycle analysis, in conducting the life cycle analysis, and in issuing a draft report for public review and comment.

(C) Evaluate the positive and negative impacts of the testing requirements established in Section 25250.29 of the Health and Safety Code, the tiered fee on lubricating oil established in Section 48650, and the tiered incentive payments established in Section 48652, on used oil collection rates.

(D) On or before January 1, 2014, submit a report to the Legislature describing the findings of the life cycle analysis and the evaluation of the used oil management policies on used oil collection rates specified in subparagraph (C) and provide any recommendations for statutory changes that may be necessary to promote increased collection and responsible management of used oil.

(2) All costs incurred by the board and its contractors in meeting the requirements of this subdivision shall be covered by the additional one-half-cent ($0.005) fee established in subdivision (a) of Section 48650, and effective through December 31, 2013, pursuant to subdivision (d) of Section 48650.

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

48652. (a) Except as provided in subdivision (d), the board shall set the recycling incentive at not less than ten cents ($0.10) per quart. The board may set the amount at an amount higher than ten cents ($0.10) if the board determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil and sufficient funds are available in the fund.

(b) On and after January 1, 2014, the board shall set the rerefining incentive at not less than two cents ($0.02) per gallon. On and after January 1, 2015, the board may set the rerefining incentive at a higher amount if the board determines that a higher amount is necessary to promote rerefining of used lubricating oil and sufficient funds are available in the fund.

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

amount was last set. The amount of an incentive paid by the board shall remain at the previous amount for one month after setting the incentive at a different amount. The board shall not raise the amount of an incentive paid unless it finds that the raise will not adversely affect funding required pursuant to Sections 48631, 48653, and 48660.5.

(d) The board shall set the recycling incentive for used oil generated by a certified used oil collection center and an industrial generator at not less than four cents ($0.04) per quart. The board may set the amount higher than four cents ($0.04), if the board determines that a higher amount is necessary to promote the collection and recycling of used oil from these generators and sufficient funds are available.

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

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

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

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

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

(3) (A) To make payments for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's population, and counties, based on the population of the unincorporated area of the county. Payment shall be determined by multiplying the total annual amount by the fraction equal to the population of cities and counties that are eligible for payments pursuant to Section 48690, divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph. Notwithstanding subdivision (b) of Section 48656, the total annual

amount shall equal eleven million dollars ($11,000,000), subject to subparagraph (B).

(B) If sufficient funds are not available to initially issue full funding pursuant to subparagraph (A), the board shall provide funding as follows:

(i) For the purposes set forth in this paragraph, one-half of the amount that remains in the fund after the expenditures are made pursuant to paragraphs (1) and (2) and subdivision (b). The board may utilize additional amounts from the fund, up to, but not exceeding, eleven million dollars ($11,000,000).

(ii) As the board finds is fiscally appropriate, for the purposes set forth in Section 48656. The board shall give priority to the distribution of funding in clause (i) for the purposes of this paragraph.

(C) Pursuant to paragraph (2) of subdivision (d) of Section 48691, it is the intent of this paragraph that at least one million dollars ($1,000,000) be made available specifically for used oil filter collection and recycling programs.

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

(5) For expenditures pursuant to Section 48656.

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

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

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

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

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

SEC. 16. Section 48654 is added to the Public Resources Code, to read:

48654. (a) It is the intent of the Legislature in enacting this chapter that local government sponsored used motor oil collection programs in rural counties continue to operate and be funded to maintain or expand their existing collection efforts. As such, funding should be increased according to increased costs due to the imposition of new requirements under this chapter enacted in the act that added this section in the 2009-10 Regular Session of the Legislature.

(b) (1) The board shall provide funds from the California Used Oil Recycling Fund to rural counties for local government sponsored collection efforts to cover additional costs of testing or reduced availability of the recycling incentive caused by increased regulatory expenses pursuant to the addition of Section 25250.29 to the Health and Safety Code, and amendments to Sections 48623, 48631, 48632, 48651, 48662, and 48670, enacted in the act that added this section in the 2009-10 Regular Session of the Legislature.

(2) To qualify for such funding, the local government shall demonstrate to the board that it has incurred additional costs and that these costs could not have been avoided or lessened through the use of a commercially viable alternative transporter or recycling facilities that are in compliance with this chapter.

SEC. 17. Section 48656 of the Public Resources Code is amended to read:

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

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

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

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

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

SEC. 18. Section 48660 of the Public Resources Code is amended to read:

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

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

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

(2) Pay to a person, at his or her request, an amount equal to the recycling incentive that the center will receive for used lubricating oil brought to the center in containers by the person. Nothing in this chapter prohibits a person from donating used lubricating oil to a center. The recycling incentive may be in the

form of a credit that may be applied toward the purchase of goods or services offered by the center, as determined by the board. The credit shall be in the form of a voucher or coupon with a value of at least twice the incentive amount to be paid pursuant to Section 48652 and have no other limits for use, unless prescribed by the board.

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

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

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

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

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

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

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

SEC. 19. Section 48660.5 of the Public Resources Code is amended to read:

48660.5. (a) If the board finds that a shipment of used oil from a certified used oil collection center, curbside collection program, or uncertified publicly funded used oil collection center in a small rural county is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for recycling, and requires that the used oil be destroyed at a substantially higher cost than the cost generally to

recycle used oil, the board shall, upon application by the used oil collection center or curbside collection program, reimburse the center or program for the additional disposal cost, subject to the eligibility requirements of subdivision (b), except as provided in subdivision (c).

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

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

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

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

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

48662. (a) The board shall certify or recertify a used oil recycling facility located in this state for which the board has received a report from the department pursuant to Section 48661, 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.

(b) The board shall require an out-of-state recycling facility, that receives used oil from a California generator and to which a recycling incentive may be paid, to register with the board declaring under penalty of perjury that the facility is operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations. An out-of-state recycling facility registering with the board pursuant to this subdivision shall, upon request, provide the board or the department with a copy of any inspection report issued for the facility by, or any other enforcement related documents available to, the agency responsible for enforcing Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations at the facility.

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

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

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

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

(B) The facility produces rerefined base lubricant meeting the specifications in Section 48620.2. An out-of-state recycling facility registering with the board pursuant to this subdivision shall, upon request, provide the board or the department with a copy of records demonstrating that the used oil has been recycled to meet the specifications for rerefined oil, as defined in Section 48620.2.

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

(e) Paragraph (2) of subdivision (c) does not require the department to inspect or prohibit the department from inspecting an out-of-state facility to determine whether the department is satisfied that the facility substantially meets the requirements for certification.

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

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

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

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

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

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

payment based on the actual amount of used oil accepted from the public and recycled.

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

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

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

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

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

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

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

48674. After receiving payments pursuant to paragraph (3) of subdivision (a) of Section 48653, each local government shall submit a report to the board, in the manner specified by the board, that includes any amendments to the local used oil collection program adopted pursuant to Section 48690, a description of all measures taken to implement the program, and a description of how payments were expended.

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

48690. A local government is eligible for a payment pursuant to paragraph (3) of subdivision (a) of Section 48653, if it develops and submits a local used oil collection program to the board pursuant to Section 48691 and files a report pursuant to Section 48674. The board shall make a payment to every local government that submits a program and files a report unless the board finds that the program or its implementation does not comply with criteria contained in this article. The board may make a payment to another entity that will implement the program of a local government in lieu of making a payment to that local government with the concurrence of that local government. A payment issued by the board pursuant to this section may take the form of an advance payment. If a local government does not implement a used oil collection program or chooses not to accept the payment pursuant to paragraph (3) of subdivision (a) of Section 48653, the board may allocate that local government's payment to another local government that commits to implementing a used oil collection program pursuant to Section 48691 and serving the residents of the nonparticipating local government, if any program implemented within the boundaries of the nonparticipating jurisdiction is approved by the nonparticipating jurisdiction.

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

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

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

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

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

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

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

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

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

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