
Independent Review Panel

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

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Independent Review Panel Report on Chaptered Bills Pertaining to DTSC

October 14, 2016

The following list of 2016 chaptered legislation does not include measures that apply to other state agencies in addition to DTSC. IRP support staff prepared this report independently of DTSC.

AB 118 (Santiago) Hazardous substances: cleanup: Exide Technologies facility.

Status: 4/20/2016-Chaptered by Secretary of State - Chapter No. 10, Statutes of 2016

Summary: Appropriates \$176,600,000 from the Toxic Substances Control Account to the DTSC for activities related to the cleanup and investigation of lead-contaminated properties in the communities surrounding the Exide Technologies facility in the City of Vernon, including job training activities, and actions taken to pursue all available remedies against potentially responsible parties. The bill requires the department to engage the impacted community, as specified; develop a Job and Development Training Program, as specified; and post on its Internet Web site specified information.

AB 1419 (Eggman) Hazardous waste: cathode ray tube glass.

Status: 9/22/2016-Chaptered by Secretary of State - Chapter No. 445, Statutes of 2016

Summary: Current law requires DTSC to regulate the management and disposal of hazardous waste. Under current regulations, the department classifies a waste as hazardous waste if the waste exceeds certain total threshold limitation concentrations, which are established by the department for various substances, including barium. This bill, except as specified, provides that used, broken cathode ray tube (CRT) panel glass and processed CRT panel glass that exceeds the total threshold limit concentration only for barium is not a waste and is not subject to regulation by the department if that panel glass meets certain requirements.

AB 1858 (Santiago) Automobile dismantling: task force.

Status: 9/22/2016-Chaptered by Secretary of State - Chapter No. 449, Statutes of 2016

Summary: Until January 1, 2020, requires the Department of Motor Vehicles to collaborate with the State Board of Equalization, the California Environmental Protection Agency, the DTSC, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and the State Air Resources Board to review and coordinate enforcement and compliance activity related to unlicensed and unregulated automobile dismantling, including resulting tax evasion, environmental impacts, and public health impacts.

AB 2125 (Chiu) Healthy Nail Salon Recognition Program.

Status: 9/24/2016-Chaptered by Secretary of State - Chapter No. 564, Statutes of 2016

Summary: Requires DTSC to publish guidelines for cities, counties, and cities and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs. The bill allows the guidelines to include, but not be limited to, specified criteria, such as the potential for exposure of nail salon workers and customers to chemicals. The bill also requires the department to develop a consumer education program, present the guidelines to local health officers, local environmental health departments, and other local agencies, and post specified information on its Internet Web site.

AB 2153 (Garcia, Cristina) The Lead-Acid Battery Recycling Act of 2016.

Status: 9/26/2016-Chaptered by Secretary of State - Chapter No. 666, Statutes of 2016

Summary: Current law requires a dealer to accept, when offered at the point of transfer, a lead-acid battery from a consumer in exchange for the new lead-acid battery purchased by that consumer from the dealer. A violation of these provisions is a misdemeanor. This bill, the Lead-Acid Battery Recycling Act of 2016, revises, as of January 1, 2017, these provisions to require a dealer to accept, at the point of transfer, specified types of used lead-acid batteries and would prohibit the dealer from charging any fee to accept these used lead-acid batteries.

AB 2605 (Nazarian) State government: Office of Permit Assistance.

Status: 7/22/2016-Chaptered by Secretary of State - Chapter No. 78, Statutes of 2016

Summary: Current law established the Office of Permit Assistance within the Trade and Commerce Agency to, among other things, provide information to developers relating to the permit approval process. Under current law, a state agency which is the lead agency for a development project is required to inform the applicant for a permit that the Office of Permit Assistance has been created for this purpose. This bill instead requires a state agency that is a lead agency for a development project to inform the applicant for a permit that the Governor's Office of Business and Economic Development has been created for this purpose.

AB 2891 (Committee on Environmental Safety and Toxic Material) Hazardous waste: funding.

Status: 9/27/2016-Chaptered by Secretary of State - Chapter No. 704, Statutes of 2016

Summary: Expresses the intent of the Legislature that the funds deposited in the Toxic Substances Control Account be appropriated in the annual Budget Act each year to the Site Remediation Account in an amount that is sufficient to pay for estimated costs for direct site remediation at both federal Superfund orphan sites and at state orphan sites, and that not less than \$10,750,000 be appropriated in the annual Budget Act each year to the account for direct site remediation costs. The bill requires the department to include those estimated costs in a report submitted to the Legislature with the Governor's Budget each year.

AB 2893 (Committee on Environmental Safety and Toxic Material) Department of Toxic Substances Control: enforcement.

Status: 8/19/2016-Chaptered by Secretary of State - Chapter No. 145, Statutes of 2016

Summary: Hazardous Waste Control Law authorizes DTSC and authorized local enforcement officers and agencies to require specified persons to furnish and transmit certain information relating to the person's ability to pay for or perform a response action, and further authorizes those entities to require any person who has information regarding another person's activities that relate to the ability of the person to pay for or perform a response action to also furnish and transmit the information. This bill makes those provisions applicable also if there is a reasonable basis to believe that there has been or may be a release or threatened release of hazardous wastes or hazardous material and also for the purpose of determining how to finance a corrective action.

SB 93 (De León) Budget Act of 2015.

Status: 4/20/2016-Chaptered by Secretary of State - Chapter No. 9, Statutes of 2016

Summary: Requires the Director of Finance to transfer up to \$176,600,000 as a loan from the General Fund to the Toxic Substances Control Account for the DTSC to use for activities related to the lead contamination in the communities surrounding the Exide Technologies facility in the City of Vernon. This bill requires the department to repay these funds, as specified, and authorizes the Director of Finance to forgive any unpaid balance of the loan under specified circumstances. This bill contains other related provisions.

SB 423 (Bates) Surplus household consumer product waste: management.

Status: 9/28/2016-Chaptered by Secretary of State - Chapter No. 771, Statutes of 2016

Summary: Requires DTSC to convene a Retail Waste Working Group, as prescribed, to consider and make findings and recommendations relating to requirements for the management of surplus household consumer products, waste reduction opportunities for those products, and waste management requirements, as specified. The bill requires the working group to report these findings and recommendations to the Legislature by June 1, 2017.

SB 820 (Hertzberg) Hazardous materials: California Land Reuse and Revitalization Act of 2004.

Status: 8/22/2016-Chaptered by Secretary of State - Chapter No. 166, Statutes of 2016

Summary: Extends the repeal date of the California Land Reuse and Revitalization Act of 2004 to January 1, 2027, and provides that a person who qualifies for immunity under the act before January 1, 2027 shall continue to have that immunity on and after January 1, 2027, if the person continues to be in compliance with the requirements of the former act.

SB 839 (Committee on Budget and Fiscal Review) Public resources.

Status: 9/13/2016-Chaptered by Secretary of State - Chapter No. 340, Statutes of 2016

Summary: Existing law requires DTSC to adopt, and revise as necessary, regulations establishing management standards for treated wood waste. Existing law makes these, and other requirements regarding treated wood waste, inoperative on December 31, 2020. Existing law requires the department, on or before January 1, 2018, to prepare, post on its Internet Web site, and provide to the appropriate policy committees of the Legislature, a comprehensive report with specified content on the compliance with, and implementation of, these laws relating to treated wood waste. This bill extends to July 1, 2018, the time by which the department is to prepare, post on its Internet Web site, and provide the appropriate policy committees of the Legislature the comprehensive report. ... Existing law requires the department to suspend the permit of a hazardous waste facility for nonpayment of a specified facility fee or activity fee if the operator of the facility is subject to the fee and if the State Board of Equalization has certified that certain circumstances exist. This bill allows the department, in addition to the State Board of Equalization, to certify the existence of those circumstances, and includes within the circumstances that the department or the State Board of Equalization has notified the facility's operator of the delinquency and that the operator has exhausted certain administrative rights of appeal or dispute resolution procedures, as specified. ... Existing law provides a person who applies for, or requests, specified hazardous waste permits, variances, or waste classification determinations with the option of paying a flat fee or entering into a reimbursement agreement to reimburse the department for costs incurred in processing the application or response to the request. Existing law authorizes a reimbursement agreement to include costs incurred by the department in reviewing and overseeing corrective action but prohibits the department from assessing a fee or seeking reimbursement for reviewing and overseeing preliminary site assessment in conjunction with a hazardous waste facilities permit application. This bill eliminates the flat fee option. The bill additionally requires the

reimbursement agreement to provide for the reimbursement of the costs incurred by the department in reviewing and overseeing corrective action and requires an applicant and the owner and the operator of the facility to pay these costs and to pay all costs incurred by the department to comply with the California Environmental Quality Act. The bill repeals the prohibition on the department assessing a fee or seeking reimbursement for reviewing and overseeing a preliminary site assessment in conjunction with a hazardous waste facilities permit application. The bill requires at least 25% of the agreed-upon reimbursement to be made in advance, based on the department's total estimated costs of processing the application or response to the request. The bill applies these revised fee provisions to applications and requests submitted to the department on or after April 1, 2016. ... Under existing law, if a facility's permit or interim status document sets forth the facility's allowable capacity for treatment or storage, the annual facility fee is based upon that capacity, and the department may require the facility to submit an application to modify the permit to provide for an allowable capacity. Under existing law, if a facility's permit or interim status document does not set forth its type, that type is presumed for purposes of setting fees, and the department is authorized to require the facility to submit an application to modify the permit or interim status document to provide for a facility type. Existing law exempts these applications from the requirement to either pay a flat fee or enter into a reimbursement agreement. This bill subjects these applications for modification to the above-described reimbursement requirement. ... Existing law requires specified fees, including the flat fee and the fee paid under the reimbursement agreement, as applicable, to be administered and collected by the State Board of Equalization in accordance with the Hazardous Substance Tax Law. This bill provides that the fees, as revised above, shall instead be administered and collected by the department. This bill makes conforming changes and deletes obsolete provisions pertaining to the state's hazardous waste programs. ... Existing law requires the department to adopt regulations to establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern. Existing law requires the regulations adopted to specify the range of regulatory responses that the department may take following the completion of the alternatives analysis. Under its regulatory authority, the department has adopted the 2015-17 Priority Product Work Plan, which describes categories from which the department will select priority products for which safer alternatives are to be evaluated. This bill requires the department to revise the 2015-17 Priority Product Work Plan to include lead acid batteries for consideration and evaluation as potential priority products.

SB 1000 (Leyva) Land use: general plans: environmental justice.

Status: 9/24/2016-Chaptered by Secretary of State - Chapter No. 587, Statutes of 2016

Summary: Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires this general plan to include several elements. This bill adds to the required elements of the general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The bill also requires the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities, as specified, identify objectives and policies to promote civil engagement in the public decision making process, and identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities. The bill requires the environmental justice element, or the environmental justice goals, policies, and

objectives in other elements, to be adopted or reviewed upon the adoption or next revision of 2 or more elements concurrently on or after January 1, 2018.

SB 1325 (De León) Hazardous waste: facilities: post closure plans.

Status: 9/26/2016-Chaptered by Secretary of State - Chapter No. 676, Statutes of 2016

Summary: Current law requires the DTSC to impose the requirements of a hazardous waste facility postclosure plan on the owner or operator of a facility through the issuance of a postclosure permit, or, only until January 1, 2009, through an enforcement order or an enforceable agreement, except as specified. This bill restores the authority of the department to impose those requirements through an enforcement order or an enforceable agreement and requires the department, on or before January 1, 2018, to adopt regulations to impose postclosure plan requirements.