



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**HEALTH AND SAFETY CODE - HSC**

**DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007]** ( *Division 20 enacted by Stats. 1939, Ch. 60.*  )

**CHAPTER 6.5. Hazardous Waste Control [25100 - 25259]** ( *Chapter 6.5 added by Stats. 1972, Ch. 1236.*  )

**ARTICLE 6.5. Hazardous Waste Haulers [25167.1 - 25169.3]** ( *Article 6.5 added by Stats. 1979, Ch. 1097.*  )

**25167.1.** This article may be cited and shall be known as the Hazardous Waste Haulers Act. It is not the intent of the Legislature in enacting these provisions to preempt or weaken any state or federal law or regulation specifically relating to the handling or transportation of radioactive materials or nuclear waste.

(*Added by Stats. 1979, Ch. 1097.*)

**25167.2.** The Legislature finds and declares that increasing quantities of hazardous waste are being produced in this state and that adequate and reasonable safeguards in handling hazardous wastes, particularly in transporting hazardous wastes to disposal sites, are necessary to protect the public health and environment.

(*Added by Stats. 1979, Ch. 1097.*)

**25167.3.** It is the intent of the Legislature that this article preempt all local regulations and all conflicting state regulations concerning the transportation of hazardous waste, including all inspection, licensing, and registration of trucks, trailers, semitrailers, vacuum tanks, cargo tanks, and containers used to transport all types of hazardous wastes. No state or local agency, including, but not limited to, a chartered city or county, shall adopt or enforce any ordinance or regulation which is inconsistent with the rules and regulations adopted by the Department of Toxic Substances Control, the Department of the California Highway Patrol, or the State Fire Marshal pursuant to this article.

(*Amended by Stats. 1996, Ch. 539, Sec. 6. Effective January 1, 1997.*)

**25167.4.** For purposes of this article, the following terms have the following meaning:

(a) "Vehicle" means a truck, trailer, semitrailer, or cargo tank. "Vehicle" does not include a truck tractor unless it is capable of containing a portion of the cargo.

(b) "Container" means a portable tank, intermediate bulk container, or rolloff bin.

(*Amended by Stats. 1997, Ch. 945, Sec. 2. Effective January 1, 1998.*)

**25168.1.** The department shall adopt regulations for containers used to transport hazardous waste that are not subject to the federal regulations contained in Title 49 of the Code of Federal Regulations.

(*Added by Stats. 1997, Ch. 945, Sec. 3. Effective January 1, 1998.*)

**25169.** (a) Every transporter of hazardous waste shall maintain ability to respond in damages resulting from the operation of that business. The ability to respond in damages includes the ability to respond to public liability, as provided in subdivision (c). For purposes of this section only, "public liability" means liability for bodily injury, including injury to the body, sickness, or disease to any person, and death resulting from any such injury, sickness, or disease; for property damage, including damage to, or loss of use of, tangible property; and for environmental restoration, including restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This liability includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage or potential for damage to human health, the natural environment, fish, shellfish, and wildlife.

(b) The department shall, within 15 working days of being informed of any violation of subdivision (a), transmit a notice of violation to the transporter suspected of the violation. If the transporter so notified does not present proof of compliance with subdivision (a) to the department's satisfaction within 30 days of transmittal of the notice, the department shall immediately, notwithstanding Section 25186, suspend the transporter's registration. If proof of compliance is not submitted within 60 days, the registration shall immediately be revoked, notwithstanding Section 25186. A transporter whose registration is revoked pursuant to this subdivision may apply again for registration upon furnishing proof of compliance with subdivision (a).

(c) The ability to respond to public liability means having a policy of insurance coverage issued by an insurer or a surety bond issued by a surety, which meets both of the following requirements:

(1) The policy or bond has the liability limits specified for carriers of hazardous wastes by the Department of Transportation in Part 387 (commencing with Section 387.1) of Subchapter B of Chapter 111 of Title 49 of the Code of Federal Regulations, except that coverage shall be in the amount of one million two hundred thousand dollars (\$1,200,000) for waste petroleum in bulk shipments, and six hundred thousand dollars (\$600,000) for vehicles under 10,000 pounds gross vehicle weight rating.

(2) The policy's or bond's terms conform to Form MCS-90 or MCS-82, respectively, as defined and set forth in Sections 387.7 to 387.15, inclusive, of Title 49 of the Code of Federal Regulations, or a written decision, order, or authorization to self-insure that complies with paragraph (3) of subsection (d) of Section 387.7 of Title 49 of the Code of Federal Regulations, adopted pursuant to Section 30 of the Motor Carrier Act of 1980 (49 U.S.C. Sec. 10927).

(d) As proof of compliance with subdivision (a), an insurer or surety which provides the insurance coverage or surety bond required by this section shall agree to provide the department with proof of the transporter's ability to respond in damages. An insurer or surety may demonstrate the ability of the transporter to respond to public liability by submitting a completed certificate of insurance on a form provided by the department or a Form MCS-90 or MCS-82, as specified in Section 387.15 of Title 49 of the Code of Federal Regulations, to the department.

(e) An insurer or surety who has agreed to provide the department with proof of ability to respond in damages, as required by subdivision (d), shall also provide the department with a written or facsimile notice within 24 hours after loss of insurance providing ability to respond in damages, as required by subdivision (d).

*(Amended by Stats. 1995, Ch. 628, Sec. 4. Effective January 1, 1996.)*

**25169.3.** Before hazardous waste is transported from an abandoned site to another disposal site, all of the following conditions shall be met:

(a) The department shall conduct such tests, or cause such tests to be completed by the responsible party, as are necessary to determine the general chemical and mineral composition of hazardous waste that is being transported.

(b) The hazardous waste hauler shall prepare a transportation and safety plan outlining safety features and procedures to be used by the hauler to protect the public during the transportation process.

(c) The department shall review and approve the transportation and safety plan.

(d) The hazardous waste hauler shall, under penalty of perjury, certify that he or she will follow the provisions of the transportation and safety plan.

(e) The department shall issue a certificate to the hazardous waste hauler certifying that the transportation and safety plan has been approved by the department. The person transporting the waste shall have the certificate in his or her possession while transporting the waste. Such certificate shall be shown upon demand to any department official, officer of the California Highway Patrol, or any local health officer.

The term "abandoned site," as used in this section, means an inactive waste disposal, treatment, or storage facility which cannot, with reasonable effort, be traced to a specific owner; a site whose owner is the subject of an order for relief in bankruptcy, or who has not taken corrective action on or before the date specified in an order issued pursuant to Section 25187; or a location where hazardous waste has been illegally disposed.

(f) The requirements of this section shall not apply when the hazardous waste disposal is the direct result of an accidental spill or the department determines that emergency action is needed to protect the environment or the public health.

*(Amended by Stats. 2009, Ch. 500, Sec. 51. (AB 1059) Effective January 1, 2010.)*