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**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 6.6. Hazardous Waste of Concern and Public Safety Act [25169.5 - 25169.9]** (*Article 6.6 added by Stats. 2002, Ch. 607, Sec. 2.*)

**25169.5.** For purposes of this article, the following definitions shall apply:

(a) "Background check" means a criminal history background check obtained from fingerprint images submitted by the person or persons identified in the disclosure statement, pursuant to Section 25112.5. The background check shall include any previous name or names of the person submitting the fingerprint images.

(b) "Hazardous waste of concern" means a hazardous waste listed as a hazardous waste of concern by the department pursuant to Section 25169.6.

(*Added by Stats. 2002, Ch. 607, Sec. 2. Effective January 1, 2003.*)

**25169.6.** (a) On or before July 1, 2003, the department shall adopt by regulation, and revise as appropriate, a list of hazardous wastes of concern and, for purposes of subdivision (a) of Section 25169.7, the minimum quantity of the hazardous waste of concern that is required to be reported when missing. The list shall include, at a minimum, any hazardous waste that the department, in consultation with the other agencies described in subdivision (b), determines requires special handling restrictions and requirements, beyond those restrictions and requirements generally applicable to hazardous wastes, because of the potential for a hazardous waste of concern to be intentionally and effectively used to harm the public in a terrorist or other criminal act.

(b) The department shall develop the list of hazardous wastes of concern and associated reportable quantities, in consultation with other affected local, state, and federal agencies that have technical expertise on the storage, transportation, and potential hazards of those hazardous wastes.

(*Added by Stats. 2002, Ch. 607, Sec. 2. Effective January 1, 2003.*)

**25169.7.** Except as specified otherwise in subdivision (b), on and after July 1, 2003, all of the following requirements, including any regulations adopted by the department pursuant to Section 25169.8, shall apply to any person handling any hazardous waste of concern:

(a) (1) If a hazardous waste transporter or the owner or operator of a hazardous waste facility discovers that a hazardous waste of concern is missing during transportation or storage, and the amount of waste missing equals or exceeds the reportable quantity specified in the regulations adopted pursuant to Section 25169.6, the hazardous waste transporter or the owner or operator shall immediately, as specified in the regulations adopted by the department, provide a verbal notification to the department and report the discrepancy to the department in writing by letter within five days after the discovery. The transporter or the owner or operator shall also comply with the applicable manifest discrepancy reporting requirements specified in the regulations adopted by the department pursuant to this chapter.

(2) Within 24 hours after receiving a notification of a missing hazardous waste of concern pursuant to paragraph (1), the department shall make a preliminary determination whether there is a potential risk to public safety. If, after making that preliminary determination, or at any time thereafter, the department determines the missing hazardous waste of concern presents a significant potential risk to public safety from its use in a terrorist or other criminal act, the department shall notify the Office of Emergency Services and the Department of the California Highway Patrol.

(3) The Department of the California Highway Patrol may enter and inspect any hazardous waste facility at the department's request to perform an investigation of any hazardous waste that the department determines may be missing.

(b) (1) Notwithstanding Section 25200.4, any person applying for a hazardous waste facilities permit or other grant of authorization to use and operate a hazardous waste facility that would handle hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(2) On or before January 1, 2004, and at any time upon the request of the department, any person owning or operating a hazardous waste facility that handles any hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(3) (A) Except as provided in subparagraph (B), on and after January 1, 2004, any person applying for registration as a hazardous waste transporter who will transport hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(B) Subparagraph (A) does not apply to a transporter who has submitted a disclosure statement to the department within the two-year period immediately preceding the application for registration, unless there has been a change in the information required to be contained in the disclosure statement or the department requests the transporter to submit a disclosure statement.

(4) At any time upon the request of the department, any registered hazardous waste transporter who transports any hazardous waste of concern shall submit to the department a disclosure statement containing the information specified in Section 25112.5.

(5) Whenever any change pertaining to the information required to be contained in a disclosure statement filed pursuant to paragraphs (1) to (4), inclusive, occurs after the date of the filing of the disclosure statement, the transporter or the facility owner or operator shall provide the updated information in writing to the department within 30 days of the change.

(6) On or before 180 days after receiving a disclosure statement pursuant to this subdivision, the department shall conduct a background check, as defined in subdivision (a) of Section 25169.5.

(7) This subdivision does not apply to any federal, state, or local agency or any person operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption.

*(Amended by Stats. 2013, Ch. 352, Sec. 347. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)*

**25169.8.** (a) On or before July 1, 2003, the department shall adopt emergency regulations to implement this article, with the concurrence of the California Highway Patrol.

(b) The regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11349.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(c) Except as provided in subdivision (d), in adopting regulations pursuant to this section, the department shall ensure that the regulations are consistent with the Hazardous Materials Transportation Authorization Act of 1994 (Chapter 51 (commencing with Section 5101) of Title 49 of the United States Code, and thereafter amended.

(d) If the department determines that a requirement imposed pursuant to Section 25169.7 could be preempted by the Hazardous Materials Transportation Authorization Act of 1994 pursuant to Section 5125 of Title 49 of the Code of Federal Regulations, the department shall apply to the Secretary of Transportation for a waiver of preemption pursuant to subsection (e) of Section 5125 of Title 49 of the United States Code.

*(Added by Stats. 2002, Ch. 607, Sec. 2. Effective January 1, 2003.)*

**25169.9.** (a) The department shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for any person applying for registration as a hazardous waste transporter who will transport hazardous waste of concern and submits a disclosure statement containing the information specified in subdivision (a) of Section 25112.5 pursuant to subdivision (u) of Section 11105 of the Penal Code.

(b) The Department of Justice shall provide a state- or federal-level response pursuant to subdivision (p) of Section 11105 of the Penal Code.

*(Added by Stats. 2023, Ch. 198, Sec. 14. (SB 152) Effective September 13, 2023.)*