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SB-162 Treated wood waste. (2015-2016)

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Senate Bill No. 162

CHAPTER 351

An act to amend Section 25150.7 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 28, 2015. Filed with Secretary of State September 28, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 162, Galgiani. Treated wood waste.

(1) Existing law requires the wood preserving industry to provide certain information relating to the potential danger of treated wood to wholesalers and retailers of treated wood and wood-like products. Existing law requires these wholesalers and retailers to conspicuously post the information at or near the point of display or customer selection of treated wood and wood-like products, as specified.

This bill would update the information required to be posted by wholesalers and retailers of treated wood and treated wood-like products.

(2) Existing law requires the Department of Toxic Substances Control to adopt, and revise as necessary, regulations establishing management standards for treated wood waste, subject to specified limitations. Existing law makes these, and other requirements regarding treated wood waste, inoperative on June 1, 2017, but provides that a regulation adopted pursuant to these provisions on or before June 1, 2012, continues in force and effect until repealed or revised. A violation of the state's hazardous waste control laws is a crime.

This bill would remove those limitations for treated wood waste regulations adopted by the department, would extend the operation of these provisions regarding treated wood waste to December 31, 2020, and would repeal the language concerning the continued operation of treated wood waste regulations. By extending the operation of a crime, the bill would impose a state-mandated local program. The bill would require, on or before January 1, 2018, the department 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.

(3) 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25150.7 of the Health and Safety Code is amended to read:

25150.7. (a) The Legislature finds and declares that this section is intended to address the unique circumstances associated with the generation and management of treated wood waste. The Legislature further declares that this section does not set a precedent applicable to the management, including disposal, of other hazardous wastes.

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

(1) "Treated wood" means wood that has been treated with a chemical preservative for purposes of protecting the wood against attacks from insects, microorganisms, fungi, and other environmental conditions that can lead to decay of the wood, and the chemical preservative is registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(2) "Wood preserving industry" means business concerns, other than retailers, that manufacture or sell treated wood products in the state.

(c) This section applies only to treated wood waste that, solely due to the presence of a preservative in the wood, is a hazardous waste and to which both of the following requirements apply:

(1) The treated wood waste is not subject to regulation as a hazardous waste under the federal act.

(2) Section 25143.1.5 does not apply to the treated wood waste.

(d) (1) Notwithstanding Sections 25189.5 and 25201, treated wood waste shall be disposed of in either a class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, and that is regulated by waste discharge requirements issued pursuant to Division 7 (commencing with Section 13000) of the Water Code for discharges of designated waste, as defined in Section 13173 of the Water Code, or treated wood waste.

(2) A solid waste landfill that accepts treated wood waste shall comply with all of the following requirements:

(A) Manage the treated wood waste to prevent scavenging.

(B) Ensure that any management of the treated wood waste at the solid waste landfill before disposal, or in lieu of disposal, complies with the applicable requirements of this chapter, except as otherwise provided by regulations adopted pursuant to subdivision (f).

(C) If monitoring at the composite-lined portion of a landfill unit at which treated wood waste has been disposed of indicates a verified release, then treated wood waste shall not be discharged to that landfill unit until corrective action results in cessation of the release.

(e) (1) Each wholesaler and retailer of treated wood and treated wood-like products in this state shall conspicuously post information at or near the point of display or customer selection of treated wood and treated wood-like products used for fencing, decking, retaining walls, landscaping, outdoor structures, and similar uses. The information shall be provided to wholesalers and retailers by the wood preserving industry in 22-point type, or larger, and contain the following message:

Warning—Potential Danger

These products are treated with wood preservatives registered with the United States Environmental Protection Agency and the California Department of Pesticide Regulation and should only be used in compliance with the product labels.

This wood may contain chemicals classified by the State of California as hazardous and should be handled and disposed of with care. Check product label for specific preservative information and Proposition 65 warnings concerning presence of chemicals known to the State of California to cause cancer or birth defects.

Anyone working with treated wood, and anyone removing old treated wood, needs to take precautions to minimize exposure to themselves, children, pets, or wildlife, including:

☐ Avoid contact with skin. Wear gloves and long sleeved shirts when working with treated wood. Wash exposed areas thoroughly with mild soap and water after working with treated wood.

☐ Wear a dust mask when machining any wood to reduce the inhalation of wood dusts. Avoid frequent or prolonged inhalation of sawdust from treated wood. Machining operations should be performed outdoors whenever possible to avoid indoor accumulations of airborne sawdust.

- ☐ Wear appropriate eye protection to reduce the potential for eye injury from wood particles and flying debris during machining.
- ☐ If preservative or sawdust accumulates on clothes, launder before reuse. Wash work clothes separately from other household clothing.
- ☐ Promptly clean up and remove all sawdust and scraps and dispose of appropriately.
- ☐ Do not use treated wood under circumstances where the preservative may become a component of food or animal feed.
- ☐ Only use treated wood that's visibly clean and free from surface residue for patios, decks, or walkways.
- ☐ Do not use treated wood where it may come in direct or indirect contact with public drinking water, except for uses involving incidental contact such as docks and bridges.
- ☐ Do not use treated wood for mulch.
- ☐ Do not burn treated wood. Preserved wood should not be burned in open fires, stoves, or fireplaces.

For further information, go to the Internet Web site <http://www.preservedwood.org> and download the free Treated Wood Guide mobile application.

In addition to the above listed precautions, treated wood waste shall be managed in compliance with applicable hazardous waste control laws.

(2) On or before July 1, 2005, the wood preserving industry shall, jointly and in consultation with the department, make information available to generators of treated wood waste, including fencing, decking, and landscape contractors, solid waste landfills, and transporters, that describes how to best handle, dispose of, and otherwise manage treated wood waste, through the use either of a toll-free telephone number, Internet Web site, information labeled on the treated wood, information accompanying the sale of the treated wood, or by mailing if the department determines that mailing is feasible and other methods of communication would not be as effective. A treated wood manufacturer or supplier to a wholesaler or retailer shall also provide the information with each shipment of treated wood products to a wholesaler or retailer, and the wood preserving industry shall provide it to fencing, decking, and landscaping contractors, by mail, using the Contractors' State License Board's available listings, and license application packages. The department may provide guidance to the wood preserving industry, to the extent resources permit.

(f) (1) On or before January 1, 2007, the department, in consultation with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, and the Office of Environmental Health Hazard Assessment, and after consideration of any known health hazards associated with treated wood waste, shall adopt and may subsequently revise as necessary, regulations establishing management standards for treated wood waste as an alternative to the requirements specified in this chapter and the regulations adopted pursuant to this chapter.

(2) The regulations adopted pursuant to this subdivision shall, at a minimum, ensure all of the following:

(A) Treated wood waste is properly stored, treated, transported, tracked, disposed of, and otherwise managed to prevent, to the extent practical, releases of hazardous constituents to the environment, prevent scavenging, and prevent harmful exposure of people, including workers and children, aquatic life, and animals to hazardous chemical constituents of the treated wood waste.

(B) Treated wood waste is not reused, with or without treatment, except for a purpose that is consistent with the approved use of the preservative with which the wood has been treated. For purposes of this subparagraph, "approved uses" means a use approved at the time the treated wood waste is reused.

(C) Treated wood waste is managed in accordance with all applicable laws.

(D) Any size reduction of treated wood waste is conducted in a manner that prevents the uncontrolled release of hazardous constituents to the environment, and that conforms to applicable worker health and safety requirements.

(E) All sawdust and other particles generated during size reduction are captured and managed as treated wood waste.

(F) All employees involved in the acceptance, storage, transport, and other management of treated wood waste are trained in the safe and legal management of treated wood waste, including, but not limited to, procedures for identifying and segregating treated wood waste.

(g) (1) A person managing treated wood waste who is subject to a requirement of this chapter, including a regulation adopted pursuant to this chapter, shall comply with either the alternative standard specified in the regulations adopted pursuant to subdivision (f) or with the requirements of this chapter.

(2) A person who is in compliance with the alternative standard specified in the regulations adopted pursuant to subdivision (f) is deemed to be in compliance with the requirement of this chapter for which the regulation is identified as being an alternative, and the department and any other entity authorized to enforce this chapter shall consider that person to be in compliance with that requirement of this chapter.

(h) On January 1, 2005, all variances granted by the department before January 1, 2005, governing the management of treated wood waste are inoperative and have no further effect.

(i) This section does not limit the authority or responsibility of the department to adopt regulations under any other law.

(j) (1) On or before January 1, 2018, the department shall prepare, post on its Internet Web site, and provide to the appropriate policy committees of the Legislature, a comprehensive report on the compliance with, and implementation of, this section. The report shall include, but not be limited to, all of the following:

(A) Data, and evaluation of that data, on the rates of compliance with this section and injuries associated with handling treated wood waste based on department inspections of treated wood waste generator sites and treated wood waste disposal facilities. To gather data to perform the required evaluation, the department shall do all of the following:

(i) The department shall inspect representative treated wood waste generator sites and treated wood waste disposal facilities, which shall not to be less than 25 percent of each.

(ii) The department shall survey and otherwise seek information on how households are currently handling, transporting, and disposing of treated wood waste, including available information from household hazardous waste collection facilities, solid waste transfer facilities, solid waste disposal facility load check programs, and CUPAs.

(iii) The department shall, by survey or otherwise, seek data to determine whether sufficient information and convenient collection and disposal options are available to household generators of treated wood waste.

(B) An evaluation of the adequacy of protective measures taken in tracking, handling, and disposing of treated wood waste.

(C) Data regarding the unauthorized disposal of treated wood waste at disposal facilities that have not been approved for that disposal.

(D) Conclusions regarding the handling of treated wood waste.

(E) Recommendations for changes to the handling of treated wood waste to ensure the protection of public health and the environment.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2022, pursuant to Section 10231.5 of the Government Code.

(k) This section shall become inoperative on December 31, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. 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.