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AB-245 Hazardous waste: enforcement. (2017-2018)

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Assembly Bill No. 245

CHAPTER 499

An act to amend Sections 25188, 25189, and 25189.2 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 245, Quirk. Hazardous waste: enforcement.

Existing law permits the Department of Toxic Substances Control or an agency authorized to implement and enforce certain laws relating to hazardous materials, known as a unified program agency, to enforce the Hazardous Waste Control Law. Existing law authorizes the department or a unified program agency to issue an order that requires a violation to be corrected and imposes an administrative penalty when there is a violation of the hazardous waste control laws, laws regulating hazardous substances, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those laws. Under existing law, a person who does not comply with the order is subject to a civil penalty of not more than \$25,000 for each day of noncompliance. In lieu of an administrative penalty, existing law makes any person who intentionally or negligently makes a false statement or representation for purposes of compliance with the hazardous waste control laws, violates a provision of the hazardous waste control laws, disposes or causes the disposal of a hazardous waste at an unauthorized site, or treats or stores a hazardous waste at an unauthorized site liable for a civil penalty not to exceed \$25,000, as specified.

This bill would increase these administrative and civil penalties to \$70,000 and would make nonsubstantive changes in these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 25188 of the Health and Safety Code is amended to read:

25188. A person subject to an order issued pursuant to Section 25187 who does not comply with that order shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for each day of noncompliance.

SEC. 2. Section 25189 of the Health and Safety Code is amended to read:

25189. (a) A person who intentionally or negligently makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Except as provided in subdivision (c), (d), or (e), a person who intentionally or negligently violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues.

(c) A person who intentionally disposes or causes the disposal of a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) or more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person has knowledge of the deposit is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who negligently disposes or causes the disposal of a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person had knowledge of the deposit is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(e) A person who intentionally or negligently treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(f) Each civil penalty imposed for a separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

(g) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189.2 for the same act or failure to act.

SEC. 3. Section 25189.2 of the Health and Safety Code is amended to read:

25189.2. (a) A person who makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c) or (d), a person who violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) A person who disposes, or causes the disposal of, a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court or, in the case of an administrative action, a hearing officer, may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(e) For purposes of subdivisions (c) and (d), a person who offers hazardous waste to a transporter that is registered pursuant to Section 25163 or to a storage, treatment, transfer, resource recovery, or disposal facility that holds a valid hazardous waste facilities permit or other grant of authorization from the department that authorizes the facility to accept the waste being offered shall not be considered to have caused disposal, treatment, or storage of hazardous waste at an unauthorized point solely on the basis of having offered that person's waste, provided the person has taken reasonable steps to determine that the transporter is registered or the facility is authorized by the department to accept the hazardous waste being offered.

(f) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189 for the same act or failure to act.

(g) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to Section 25187.

