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AB-1689 Business plans: combustible metals. (2017-2018)

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Date Published: 07/31/2017 09:00 PM

Assembly Bill No. 1689

CHAPTER 159

An act to amend Section 25507 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor July 31, 2017. Filed with Secretary of State July 31, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1689, Committee on Environmental Safety and Toxic Materials. Business plans: combustible metals.

Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program.

As part of that program, existing law requires a business that handles a hazardous material or a mixture containing a hazardous material at any one time during the reporting year in quantities equal to, or greater than, 55 gallons for materials that are liquids, 500 pounds for solids, or 200 cubic feet for compressed gas to establish and implement a business plan for emergency response to a release, or threatened release, of the hazardous material. These business plan requirements are enforced primarily by local agencies certified or designated by the department for purposes of enforcement of the unified program. A person who knowingly violates business plan requirements is guilty of a misdemeanor.

This bill would also require businesses that handle combustible metals or metal alloys, as described, in specified quantities, to establish and implement a business plan of this type. By imposing additional duties on local agencies enforcing the business plan requirements, and because a violation of this requirement would be a crime, this bill would impose a state-mandated local program.

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 specified reasons.

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

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

SECTION 1. Section 25507 of the Health and Safety Code is amended to read:

25507. (a) Except as provided in this article, a business shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted pursuant to Section 25503 if the business meets any of the following conditions at any unified program facility:

(1) (A) It handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is equal to, or greater than, 55 gallons for materials that are liquids, 500 pounds for solids, or 200 cubic feet for compressed gas, as defined in subdivision (i) of Section 25501. The physical state and quantity present of mixtures shall be determined by the physical state of the mixture as a whole, not individual components, at standard temperature and pressure.

(B) For the purpose of this section, for compressed gases, if a hazardous material or mixture is determined to exceed threshold quantities at standard temperature and pressure, it shall be reported in the physical state at which it is stored. If the material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations, all amounts shall be reported in pounds.

(2) It is required to submit chemical inventory information pursuant to Section 11022 of Title 42 of the United States Code.

(3) It handles at any one time during the reporting year an amount of a hazardous material that is equal to, or greater than the threshold planning quantity, under both of the following conditions:

(A) The hazardous material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations.

(B) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(4) (A) It handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, except as provided in subparagraph (B).

(B) If the hazardous material handled by the facility is a paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources Recycling and Recovery pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code, the business is required to establish and implement a business plan only if the business handles at any one time during the reporting year a total weight of 10,000 pounds of solid hazardous materials or a total volume of 1,000 gallons of liquid hazardous materials.

(5) It handles at any one time during the reporting year cryogenic, refrigerated, or compressed gas in a quantity of 1,000 cubic feet or more at standard temperature and pressure, if the gas is any of the following:

(A) Classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations only for hazards due to simple asphyxiation or the release of pressure.

(B) Oxygen, nitrogen, and nitrous oxide ordinarily maintained by a physician, dentist, podiatrist, veterinarian, pharmacist, or emergency medical service provider at his or her place of business.

(C) Carbon dioxide.

(D) Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems.

(E) Gases used in closed fire suppression systems.

(6) It handles a radioactive material at any one time during the reporting year in quantities for which an emergency plan is required to be considered pursuant to Schedule C (Section 30.72) of Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1) of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

(7) It handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (1).

(8) (A) It handles a combustible metal or metal alloy that is defined as a pyrophoric or water-reactive material in the California Fire Code, in any quantity in raw stock, scrap, or powder form at any time during the reporting year.

(B) It handles a combustible metal, or metal alloy, that is defined as a combustible dust, flammable solid, or magnesium in the California Fire Code, in a quantity in raw stock, scrap, or powder form at any one time during the reporting year that is equal to, or greater than 100 pounds.

(C) It handles a combustible metal, or metal alloy, that poses an explosive potential, when in molten form, in a quantity at any one time during the reporting year that is equal to, or greater than, 500 pounds.

(b) The following hazardous materials are exempt from the requirements of this section:

(1) Refrigerant gases, other than ammonia or flammable gas in a closed cooling system, that are used for comfort or space cooling for computer rooms.

(2) Compressed air in cylinders, bottles, and tanks used by fire departments and other emergency response organizations for the purpose of emergency response and safety.

(3) (A) Lubricating oil, if the total volume of each type of lubricating oil handled at a facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

(B) For purposes of this paragraph, "lubricating oil" means oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. "Lubricating oil" does not include used oil, as defined in subdivision (a) of Section 25250.1.

(4) Both of the following, if the aggregate storage capacity of oil at the facility is less than 1,320 gallons and a spill prevention control and countermeasure plan is not required pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(A) Fluid in a hydraulic system.

(B) Oil-filled electrical equipment that is not contiguous to an electric facility.

(5) Hazardous material contained solely in a consumer product, handled at, and found in, a retail establishment and intended for sale to, and for the use by, the public. The exemption provided for in this paragraph shall not apply to a consumer product handled at the facility which manufactures that product, or a separate warehouse or distribution center of that facility, or where a product is dispensed on the retail premises.

(6) Propane that is for on-premises use, storage, or both, in an amount not to exceed 500 gallons, that is for the sole purpose of cooking, heating employee work areas, and heating water within that facility, unless the unified program agency finds, and provides notice to the business handling the propane, that the handling of the on-premises propane requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns.

(c) In addition to the authority specified in subdivision (e), the governing body of the unified program agency may, in exceptional circumstances, following notice and public hearing, exempt a hazardous material specified in subdivision (n) of Section 25501 from Section 25506, if it is found that the hazardous material would not pose a present or potential danger to the environment or to human health and safety if the hazardous material was released into the environment. The unified program agency shall send a notice to the office and the secretary within 15 days from the effective date of any exemption granted pursuant to this subdivision.

(d) The unified program agency, upon application by a handler, may exempt the handler, under conditions that the unified program agency determines to be proper, from any portion of the requirements to establish and maintain a business plan, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment, or affect the ability of the unified program agency and emergency response personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(e) The unified program agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(f) The unified program agency shall adopt procedures to provide for public input when approving applications submitted pursuant to subdivisions (d) and (e).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because 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.