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AB-2920 Hazardous waste: transportation: consolidated manifesting procedure. (2019-2020)

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Date Published: 09/30/2020 09:00 PM

Assembly Bill No. 2920

CHAPTER 222

An act to amend Section 25160.2 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2920, Obernolte. Hazardous waste: transportation: consolidated manifesting procedure.

Existing law, as part of the hazardous waste control laws, imposes various manifest requirements for transporting hazardous waste, including, among others, requiring any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and be subject to transporter registration requirements. Existing law authorizes transporters and generators to use a consolidated manifesting procedure for certain kinds of waste if specified requirements are met. A violation of the hazardous waste control laws is a crime.

This bill would authorize the consolidated manifesting procedure to be used additionally for retail hazardous waste, as defined, collected from a retailer engaged in business in the state. The bill would require, when using the consolidated manifesting procedure for retail hazardous waste, that incompatible materials transported in the same transport vehicle be managed pursuant to specified provisions that govern the transportation of hazardous waste. By expanding the application of the requirements governing the use of the consolidated manifesting procedure to additional kinds of waste and by imposing additional requirements for the management of retail hazardous waste, the bill would impose a state-mandated local program.

Existing law, as part of the consolidated manifesting procedure, requires a transporter to submit the generator copy of the manifest to the Department of Toxic Substances Control within 30 days of each shipment.

The bill would instead require a transporter to submit to the department within 30 days of each shipment a legible copy of each paper manifest used, and would provide that a transporter is not required to send the department a copy of an electronic manifest processed completely through a specified electronic manifest system. The bill would make other specified changes to the consolidated manifesting procedure.

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 25160.2 of the Health and Safety Code is amended to read:

25160.2. (a) In lieu of the procedures prescribed by Sections 25160 and 25161, transporters and generators of hazardous waste meeting the conditions in this section may use the consolidated manifesting procedure set forth in subdivision (b) to consolidate shipments of waste streams identified in subdivision (c) collected from multiple generators onto a single consolidated manifest.

(b) The following consolidated manifesting procedure may be used only for non-RCRA hazardous waste or for RCRA hazardous waste that is not required to be manifested pursuant to the federal act or the federal regulations adopted pursuant to the federal act and transported by a registered hazardous waste transporter, and used only with the consent of the generator:

(1) A separate manifest shall be completed by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

(2) The transporter shall complete both the generator's and the transporter's section of the manifest using the transporter's name, identification number, terminal address, and telephone number. The generator's and transporter's sections shall be completed before commencing each day's collections. The driver shall sign and date the generator's and transporter's sections of the manifest.

(3) The transporter shall attach to the front of the manifest legible receipts for each quantity of hazardous waste that is received from a generator. The receipts shall be used to determine the total volume of hazardous waste in the vehicle. After the hazardous waste is delivered, the receipts shall be affixed to the transporter's copy of the manifest. The transporter shall leave a copy of the receipt with the generator of the hazardous waste. The generator shall retain each receipt for at least three years. This period of retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department or a certified unified program agency.

(4) All copies of each receipt shall contain all of the following information:

(A) The name, address, identification number, contact person, and telephone number of the generator, and the signature of the generator or the generator's representative.

(B) The date of the shipment.

(C) The manifest number.

(D) The volume or quantity of each waste stream received, its California and RCRA waste codes, the waste stream type listed in subdivision (c), and its proper shipping description, including the hazardous class and United Nations/North America (UN/NA) identification number, if applicable.

(E) The name, address, and identification number of the authorized facility to which the hazardous waste will be transported.

(F) The transporter's name, address, and identification number.

(G) The driver's signature.

(H) A statement, signed by the generator, certifying that the generator has established a program to reduce the volume or quantity and toxicity of the hazardous waste to the degree, as determined by the generator, to be economically practicable.

(5) The transporter shall enter the total volume or quantity of each waste stream transported on the manifest at the change of each date, change of driver, or change of transport vehicle. The total volume or quantity shall be the cumulative amount of each waste stream collected from the generators listed on the individual receipts.

(6) The transporter shall submit to the department within 30 days of each shipment a legible copy of each paper manifest used. The transporter is not required to send the department a copy of an electronic manifest processed completely through the e-Manifest system.

(7) The transporter shall retain a copy of the manifest and all receipts for each manifest at a location within the state for three years. This period of retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department or a certified unified program agency.

(8) The transporter shall submit all copies of the manifest to the designated facility. A representative of the designated facility that receives the hazardous waste shall complete and submit the manifest in accordance with Sections 25160 and 25160.01.

(9) All other manifesting requirements of Sections 25160, 25160.01, and 25161 shall be complied with unless specifically exempted under this section.

(10) Each generator using the consolidated manifesting procedure shall have an identification number, unless exempted from manifesting requirements by Section 25143.13 for generators of photographic waste less than 100 kilograms per calendar month.

(c) The consolidated manifesting procedure set forth in subdivision (b) may be used only for the following waste streams and in accordance with the conditions specified below for each waste stream:

(1) Used oil and the contents of an oil/water separator, if the separator is a catch basin, clarifier, or similar collection device that is used to collect water containing residual amounts of one or more of the following: used oil, antifreeze, or other substances and contaminants associated with activities that generate used oil and antifreeze.

(2) The wastes listed in subparagraph (A) may be manifested under the procedures specified in this section only if all of the requirements specified in subparagraphs (B) and (C) are satisfied.

(A) Wastes eligible for consolidated manifesting include all of the following:

- (i) Solids contaminated with used oil.
- (ii) Brake fluid.
- (iii) Antifreeze.
- (iv) Antifreeze sludge.
- (v) Parts cleaning solvents, including aqueous cleaning solvents.
- (vi) Hydroxide sludge contaminated solely with metals from a wastewater treatment process.
- (vii) "Paint-related" wastes, including paints, thinners, filters, and sludges.
- (viii) Spent photographic solutions.
- (ix) Dry cleaning solvents (including perchloroethylene, naphtha, and silicone-based solvents).
- (x) Filters, lint, and sludges contaminated with dry cleaning solvent.
- (xi) Asbestos and asbestos-containing materials.
- (xii) Inks from the printing industry.
- (xiii) Chemicals and laboratory packs collected from K–12 schools.
- (xiv) Absorbents contaminated with other wastes listed in this section.
- (xv) Filters from dispensing pumps for diesel and gasoline fuels.
- (xvi) (I) Retail hazardous waste collected from a retailer engaged in business in the state.

(II) For purposes of this clause, "retail hazardous waste" means unsold consumer products in their original retail sales packaging that are determined to be hazardous waste by the retailer, and includes, but is not limited to, bleach and other cleaning products, pool chemicals, laundry detergent, cosmetics, personal hygiene products, nail polish, aerosol products, herbicides, and fertilizers.

(III) When using the consolidated manifesting procedure for retail hazardous waste pursuant to this section, incompatible materials transported in the same transport vehicle shall be managed pursuant to this chapter and the regulations adopted pursuant to this chapter.

(xvii) Any other waste, as specified in regulations adopted by the department.

(B) The generator does not generate more than 1,000 kilograms per calendar month of hazardous waste and meets the conditions of paragraph (1) of subdivision (h) of Section 25123.3. For the purpose of calculating the 1,000 kilograms per calendar month limit described in this section, the generator may exclude the volume of used oil and the contents of the oil/water separator that is managed pursuant to paragraph (1) of subdivision (c).

(C) (i) The generator enters into an agreement with the transporter in which the transporter agrees that the transporter will submit a confirmation to the generator that the hazardous waste was transported to an authorized hazardous waste

treatment facility for appropriate treatment. The agreement may provide that the hazardous waste will first be transported to a storage or transfer facility in accordance with the applicable law.

(ii) The treatment requirement specified in clause (i) does not apply to asbestos, asbestos-containing materials, and chemicals and laboratory packs collected from K–12 schools, or any other waste stream for which the department determines there is no reasonably available treatment methodology or facility. These wastes shall be transported to an authorized facility.

(d) Transporters using the consolidated manifesting procedure set forth in this section shall submit quarterly reports to the department 30 days after the end of each quarter. Except as otherwise specified in paragraph (1), the quarterly report shall be submitted in an electronic format provided by the department. The department shall make all of the information in the quarterly reports submitted pursuant to this subdivision available to the public, through its usual means of disclosure, except the department shall not disclose the association between any specific transporter and specific generator. The list of generators served by a transporter shall be deemed to be a trade secret and confidential business information for purposes of Section 25173 and Section 66260.2 of Title 22 of the California Code of Regulations.

(1) Transporters that use the consolidated manifesting procedure for less than 1,000 tons per calendar year may apply to the department to continue submitting paper format reports.

(2) For each transporter's name, terminal address, and identification number, the quarterly report shall include the following information for each generator for each consolidated manifest:

(A) The name, address, and identification number, the contact person's name, and the telephone number of each generator.

(B) The date of the shipment.

(C) The manifest number.

(D) The volume or quantity of each waste stream received, its California and RCRA waste code, and the waste stream category listed in subdivision (c).

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.