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AB-2481 Household hazardous waste: facilities: transportation and acceptance. (2021-2022)

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Assembly Bill No. 2481

CHAPTER 499

An act to amend Sections 25163, 25217.2, 25217.2.1, 25218.3, 25218.5, and 25218.8 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 23, 2022. Filed with Secretary of State September 23, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2481, Smith. Household hazardous waste: facilities: transportation and acceptance.

Under existing law, the Department of Toxic Substances Control generally regulates the management and handling of hazardous waste and hazardous materials. Existing law authorizes certain entities to operate household hazardous waste collection facilities, as defined, under permits issued by the department, and specifies conditions for the transportation of household hazardous waste. Existing law requires a person engaged in the transportation of hazardous waste to be registered with the department and to either have a legible copy of the paper manifest, provided by the generator, in their possession while transporting the hazardous waste or have an electronic manifest accessible during transportation. Existing law allows certain of those facilities to accept recyclable latex paint and oil-based paint, and other waste in specified amounts from a very small quantity generator (VSQG) of the waste, as defined, if the facility complies with certain requirements. A violation of the hazardous waste control laws is a crime.

This bill would revise and recast various requirements and conditions related to the transportation of hazardous waste and the operation of household hazardous waste collection facilities. The bill, among other things, would, to the extent consistent with federal law, allow the transporting of waste to a household hazardous waste collection facility from another household hazardous waste collection facility, as specified, with a shipping paper instead of a manifest. The bill would allow household hazardous waste to be transported in a leased vehicle. The bill also would allow, under certain circumstances, household hazardous waste to be transported to a household hazardous waste collection facility by a person who did not generate the waste. The bill would allow a household hazardous waste collection facility authorized to accept hazardous waste from a very small quantity generator to take several actions, including, but not limited to, accepting hazardous waste from a VSQG in the same area and at the same time as residential household hazardous waste and allowing the facility to accept more than 100 kilograms of hazardous waste from a VSQG at a single time as long as it accepts no more 1,200 kilograms from that VSQG in a calendar year. The bill would authorize a household hazardous waste collection facility to allow people to exit their vehicles in waste acceptance areas only under specified conditions. The bill would specify that volume limitations placed on a facility in accepting hazardous waste from a VSQG do not apply to latex and oil-based paints, as provided, and would impose other volume and weight limitations on wastes transported by public agencies under existing authority to transport, or oversee the transport of, illegally disposed of hazardous waste. The bill would also make nonsubstantive changes, including by deleting obsolete provisions, and would make clarifying and conforming changes.

To the extent this bill changes the conduct that constitutes the crime of violating the hazardous waste control laws, the 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 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. (a) The Legislature finds and declares both of the following:

(1) By facilitating the proper disposal of hazardous waste by households and small businesses, there could be an increase the amount of waste accepted by local household hazardous waste programs, which could increase costs for the sponsoring agency.

(2) The Legislature intends to recognize the existing authority for local agencies to charge fees for costs incurred in managing these hazardous wastes and balance that authority with the need to keep costs low to ensure proper disposal of hazardous waste.

(b) It is the intent of the Legislature to do all of the following:

(1) Clarify and resolve ambiguities and inconsistencies between conflicting sections of existing law.

(2) Facilitate proper disposal of hazardous waste and household hazardous waste by residential and very small quantity generators.

(3) Reduce administrative burdens and costs on local agencies that manage household hazardous waste collection programs as a public service to protect public health, safety, and the environment.

(4) Preserve existing flexibility with respect to the types and quantities of hazardous wastes accepted by local household hazardous waste collection programs.

SEC. 2. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) (1) Except as otherwise provided in subdivisions (b) to (f), inclusive, it is unlawful for a person to carry on, or engage in, the transportation of hazardous waste unless the person holds a valid registration issued by the department, and it is unlawful for a person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste transporter for purposes of this chapter. A registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) A person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in the person's possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the Department of the California Highway Patrol, any local health officer, or any public officer designated by the department.

(3) The hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) A person transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain hazardous waste originating from other than the body of a human or animal and who holds an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Article 1 (commencing with Section 117400) of Chapter 4 of Part 13 of Division 104 is exempt from the requirements of subdivision (a).

(c) Except as provided in subdivisions (e) and (f), a person transporting hazardous waste to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which waste does not exceed a total volume of five gallons or does not exceed a total weight of 50 pounds, is exempt from the requirements of subdivision (a) and from the requirements of paragraph (1) of subdivision (d) of Section 25160 requiring possession of a manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous waste is transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during transport.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces no more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) A person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to subdivision (a).

(e) A person transporting household hazardous waste or a very small quantity generator transporting hazardous waste to an authorized household hazardous waste collection facility pursuant to Section 25218.5 or 25218.5.1 is exempt from subdivision (a) and from paragraph (1) of subdivision (d) of Section 25160 requiring possession of a manifest while transporting hazardous waste.

(f) (1) To the extent consistent with federal law, the transport of household hazardous waste to a household hazardous waste collection facility is exempt from subdivision (a) and from paragraph (1) of subdivision (d) of Section 25160 requiring possession of the manifest if the transport is from another household hazardous waste collection facility, a permanent household hazardous waste collection facility, a temporary household hazardous waste collection facility, a recycle-only household hazardous waste collection facility, or a solid waste load checking program operating under an agreement with a household hazardous waste collection facility.

(2) A shipment of household hazardous waste described in paragraph (1) shall use a shipping paper that contains all the information set forth in Subpart C (commencing with Section 172.200) of Part 172 of Subchapter C of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations. The shipping paper for the shipment shall be retained for a minimum of three years. For purposes of this subdivision, "shipping paper" may include a bill of lading or a manifest as required by federal law.

SEC. 3. Section 25217.2 of the Health and Safety Code is amended to read:

25217.2. (a) Recyclable latex paint may be accepted at any location, including, but not limited to, a permanent household hazardous waste collection facility in accordance with subdivision (b), if all of the following conditions are met:

(1) The location manages the recyclable latex paint in accordance with all applicable latex paint product management procedures specified by federal, state, or local law or regulation that include, at a minimum, that the recyclable latex paint is stored and handled in a manner that minimizes the chance of exposing the handler and the environment to potentially hazardous constituents that may be in, or have been incidentally added to, the recyclable latex paint.

(2) The recyclable latex paint is still in liquid form and is in its original packaging or is in a closed container that is clearly labeled.

(3) Any latex paint that is accepted as recyclable by the location and that is later discovered to be nonrecyclable shall be deemed to be a waste generated at the location where the discovery is made and the latex paint shall be managed as a waste in accordance with this chapter.

(4) If the recyclable latex paint is not excluded or exempted from regulation under Chapter I (commencing with Section 1.1) of Title 40 of the Code of Federal Regulations, the location meets all applicable federal requirements.

(5) The recyclable latex paint is stored for no longer than 180 days.

(b) (1) For purposes of this subdivision the following definitions shall apply:

(A) "Permanent household hazardous waste collection facility" has the same meaning as defined in subdivision (h) of Section 25218.1.

(B) "VSQG" means a very small quantity generator, as specified in subdivision (q) of Section 25218.1.

(2) A permanent household hazardous waste collection facility that is authorized to accept hazardous waste from a VSQG pursuant to Section 25218.3 may accept recyclable latex paint from any generator in accordance with this article if the permanent household hazardous waste collection facility does all of the following:

(A) Complies with subdivision (a).

(B) Sends the recyclable latex paint, for recycling, to a latex paint recycling facility operating pursuant to this article.

(C) Maintains a monthly log of the volume of latex paint collected from each generator and submits that information annually with the report submitted pursuant to Section 25218.9 for household hazardous waste collected from household hazardous waste generators.

(3) A permanent household hazardous waste collection facility that takes the actions specified in paragraph (2) is not subject to the weight and volume limits on the amount of recyclable latex paint that may be accepted, pursuant to subdivision (b) of Section 25218.3.

(4) A permanent household waste collection facility may take the action specified in paragraph (2) notwithstanding a permit condition imposed upon the facility, a regulation adopted by the department to ensure a household hazardous waste collection facility does not accept hazardous waste from a commercial generator other than a VSQG, or the status of the generator.

SEC. 4. Section 25217.2.1 of the Health and Safety Code is amended to read:

25217.2.1. (a) A location that accepts recyclable latex paint pursuant to Section 25217.2 may also accept oil-based paint if all of the additional following conditions are met:

(1) The collection location is established under an architectural paint stewardship plan approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(2) The collection location receives oil-based paint only from either of the following:

(A) A person who generates oil-based paint incidental to owning or maintaining a place of residence.

(B) A very small quantity generator.

(3) The oil-based paint is still in liquid form and is in its original packaging or is in a closed container that is clearly labeled.

(4) The location manages the oil-based paint in accordance with the requirements in Section 25217.2.

(5) The collection location operates pursuant to a contract with a manufacturer or paint stewardship organization that has submitted an architectural paint stewardship plan that has been approved by the Department of Resources Recycling and Recovery and the collected paint is managed in accordance with that approved architectural paint stewardship plan.

(6) The oil-based paint is stored for no longer than 180 days.

(b) Oil-based paint initially collected at a collection location shall be deemed to be generated at the consolidation location for purposes of this chapter, if all of the following apply:

(1) The collection location is established under an architectural paint stewardship plan in accordance with the requirements of paragraph (1) of subdivision (a).

(2) The oil-based paint is subsequently transported to a consolidation location that is operating pursuant to a contract with a manufacturer or paint stewardship organization under an architectural paint stewardship plan that has been approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(3) The oil-based paint is non-RCRA hazardous waste, or is otherwise exempt from, or is not otherwise regulated pursuant to, the federal act.

(c) A permanent household hazardous waste collection facility that accepts recyclable latex paint pursuant to and in compliance with Section 25217.2 and that accepts oil-based paint is not subject to the weight and volume limits on the amount of oil-based paint that may be accepted, pursuant to subdivision (b) of Section 25218.3.

SEC. 5. Section 25218.3 of the Health and Safety Code is amended to read:

25218.3. (a) The department may authorize a household hazardous waste collection facility to accept hazardous waste from a VSQG.

(b) (1) A household hazardous waste collection facility that is authorized to accept hazardous waste from a VSQG pursuant to subdivision (a) shall not accept more than 100 kilograms of hazardous waste, or 1 kilogram of extremely hazardous waste, from any one VSQG in a calendar month. Calculations of quantity under this subdivision shall not include universal wastes managed

pursuant to the requirements of Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations.

(2) Notwithstanding paragraph (1), a household hazardous waste collection facility may accept more than 100 kilograms of hazardous waste from a VSQG at a single time as long as it accepts a total of no more than 1,200 kilograms of hazardous waste from that VSQG in a calendar year.

(3) The limits specified in this subdivision do not apply to recyclable latex paint or oil-based paint accepted by a household hazardous waste collection facility that accepts recyclable paint pursuant to Section 25217.2 or oil-based paint pursuant to Section 25217.2.1.

(c) A public agency, or its contractor, that accepts hazardous waste from a VSQG pursuant to this section may charge the VSQG a fee for the cost incurred in handling their hazardous waste.

(d) The department may adopt and revise regulations for household hazardous waste collection facilities, including those that are authorized to accept hazardous waste from a VSQG. The regulations shall provide for all of the following:

(1) Promoting the reduction, reclamation, and recycling of hazardous waste over other hazardous waste management alternatives.

(2) Ensuring the safe transport of household hazardous waste and hazardous waste to authorized collection programs.

(3) Ensuring the compliance of participating VSQGs with the monthly quantity limitations specified in Section 262.13 of Title 40 of the Code of Federal Regulations.

(e) Notwithstanding any other law, a household hazardous waste collection facility may authorize a person delivering waste at the acceptance area of the facility to exit their vehicle only if the facility determines that the person is required to exit the vehicle in order to provide access to the household hazardous waste being delivered. After providing the required access, the facility shall ensure that the person immediately returns to their vehicle.

(f) Notwithstanding any other law, a household hazardous waste collection facility may accept hazardous waste from a VSQG in the same area and at the same time that the facility accepts residential household hazardous waste.

SEC. 6. Section 25218.5 of the Health and Safety Code is amended to read:

25218.5. (a) (1) Except as provided in paragraph (2), hazardous waste transported to a household hazardous waste collection facility shall be transported by any of the following:

(A) The individual or VSQG who generated the waste.

(i) Another person may transport the waste to the household hazardous waste collection facility on behalf of an individual who generated the waste, provided the individual who generated the waste is unable or unavailable to transport the waste, for reasons including, but not limited to, death, illness, or disability.

(ii) The person transporting waste on behalf of an individual pursuant to clause (i) shall provide a certification or signed statement to the household hazardous waste collection facility at the time of delivery attesting to the circumstances under which the person is delivering the other person's waste. The person shall also verify that the person is not receiving compensation for their services, and is not employed by an organization, whether for profit or not for profit, that provides a household hazardous waste transportation service.

(iii) A person transporting waste on behalf of an individual pursuant to clause (i) is subject to the same transportation limits that otherwise apply to the household.

(B) A curbside household hazardous waste collection program.

(C) A mobile household hazardous waste collection facility, a temporary or permanent household hazardous waste collection facility, or a recycle-only household hazardous waste collection facility.

(D) A door-to-door household hazardous waste collection program.

(E) A household hazardous waste residential pickup service.

(F) A registered hazardous waste transporter carrying hazardous waste generated by a VSQG.

(G) A public agency, contractor of a public agency, or a registered hazardous waste transporter carrying hazardous waste from a solid waste facility or operation, including, but not limited to, a solid waste landfill loadcheck program or a transfer

station loadcheck program, under agreement with the household hazardous waste collection facility.

(H) A public agency, contractor of a public agency, or a registered hazardous waste transporter, under agreement with the household hazardous waste collection facility, operating under a contract with a public agency to transport hazardous wastes that were disposed of in violation of this chapter, and that are being removed by, or are being removed under the oversight of, the public agency, provided no more than 55 gallons or 500 pounds are being transported, and the hazardous wastes were not originally disposed of in violation of this chapter by that public agency.

(2) Spent batteries that are received and transported pursuant to Section 25216.1 may be transported to a household hazardous waste collection facility from a collection location or an intermediate collection location.

(3) Notwithstanding Section 25218.4, a registered hazardous waste transporter or mobile household hazardous waste collection facility transporting hazardous waste to a household hazardous waste collection facility shall comply with subdivision (f) of Section 25163.

(b) An individual transporting household hazardous waste generated by that individual and a VSQG transporting hazardous waste generated by the VSQG to a household hazardous waste collection facility shall meet all of the following conditions:

(1) (A) Except as provided in subparagraphs (B) and (C) and Section 25218.5.1, the total amount of household hazardous waste transported by an individual or hazardous waste transported by a VSQG to a household hazardous waste collection facility shall not exceed a total liquid volume of five gallons or a total dry weight of 50 pounds. If the hazardous waste transported is both liquid and nonliquid, the total amount transported shall not exceed a combined weight of 50 pounds.

(B) Subparagraph (A) does not apply to spent batteries that are collected by a collection location or intermediate collection location pursuant to Section 25216.1 and transported to a household hazardous waste collection facility.

(C) A VSQG may transport up to 27 gallons or 220 pounds, but not more than 100 kilograms, per month to a household hazardous waste collection facility, if all of the following conditions are met:

(i) The hazardous waste being transported was generated by that VSQG.

(ii) The VSQG contacts the household hazardous waste collection facility before each delivery to confirm that the facility will accept the hazardous waste.

(iii) The household hazardous waste collection facility provides oral, written, or electronic instructions to the VSQG before each delivery on proper packing for the safe transportation of the specific hazardous waste being transported.

(iv) The VSQG or employees of the VSQG transport the hazardous waste in a vehicle owned or leased and operated by the VSQG.

(D) The limits in this subdivision do not apply to recyclable latex paints or oil-based paints transported to a household hazardous waste collection facility.

(2) The household hazardous waste and VSQG hazardous waste that is transported shall be in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during transport.

(3) Different household hazardous wastes or different VSQG hazardous wastes shall not be mixed within a container before or during transport.

(4) If the hazardous waste is an extremely hazardous waste or an acutely hazardous waste, the total amount transported by a VSQG shall not exceed 2.2 pounds.

(c) (1) Except as provided in paragraph (2), the total combined volume or weight of used oil filters and antifreeze transported to a recycle-only household hazardous waste collection facility by any one individual shall not exceed a total liquid volume of 10 gallons or a total dry weight of 100 pounds. Up to two spent lead-acid batteries may be transported at the same time and not more than 20 gallons of used oil may be transported in the same vehicle if the volume of each individual container does not exceed five gallons.

(2) Paragraph (1) does not apply to spent batteries that are collected by a collection location or intermediate collection location pursuant to Section 25216.1 and transported to a household hazardous waste collection facility.

(d) A curbside household hazardous waste collection program shall meet all of the following conditions:

(1) Not more than a total combined weight of 10 pounds of used oil filters shall be collected from a single residence at one time.

(2) Not more than five gallons of used oil shall be collected from a single residence at one time, and the volume of each individual container collected shall not exceed five gallons.

(3) The volume of each individual container of architectural paint collected shall not exceed five gallons.

(4) Hazardous waste containing mercury shall not be collected by a curbside household hazardous waste collection program unless the waste is contained in secure packaging that prevents breakage and spillage.

(5) Fluorescent light tubes that are four feet or greater in length shall not be collected by a curbside household hazardous waste collection program.

(6) The transported household hazardous waste shall be in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during transport.

(7) Different household hazardous wastes shall not be mixed within a container before or during transport.

(e) A door-to-door household hazardous waste collection program or household hazardous waste residential pickup service shall meet all of the following conditions:

(1) The transported household hazardous waste shall be in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during transport.

(2) Different household hazardous wastes shall not be mixed within a container before or during transport.

(3) (A) A door-to-door household hazardous waste collection program or household hazardous waste residential pickup service is exempt from the requirements of Section 25160 regarding the use of a manifest when transporting household hazardous waste collected from individual residences to an authorized hazardous waste collection facility. In lieu of a manifest, a receipt shall be issued for the household hazardous waste collected from an individual residence, and a copy of the receipt shall be retained by the public agency for a period of at least three years.

(B) If household hazardous waste is transported to a hazardous waste facility, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, the consolidated manifesting procedures specified in Section 25160.8 shall be used by the public agency or its contractor.

(f) Notwithstanding Section 25218.4, a permanent household hazardous waste collection facility, a mobile household hazardous waste collection facility, a temporary household hazardous waste collection facility, a recycle-only household hazardous waste collection facility, or a solid waste load checking program operating under an agreement with a household hazardous waste collection facility that transports household hazardous waste from the collection facility to a household hazardous waste collection facility pursuant to subdivision (a) shall comply with subdivision (f) of Section 25163 and paragraph (1) of subdivision (d) of Section 25160.

(g) (1) Except as provided in paragraph (2), a door-to-door household hazardous waste collection program or household hazardous waste residential pickup service shall not be deemed to be a household hazardous waste collection facility for purposes of this chapter if it is operated in conjunction with an authorized household hazardous waste collection facility.

(2) A door-to-door household hazardous waste collection program or household hazardous waste residential pickup service, under which household hazardous waste is collected from households in one jurisdiction and transported to an authorized household hazardous waste collection facility in another jurisdiction, shall be deemed a household hazardous waste collection facility for purposes of this chapter and shall submit the notification required in Section 25218.2 to each Certified Unified Program Agency in whose jurisdiction the household hazardous waste is collected.

SEC. 7. Section 25218.8 of the Health and Safety Code is amended to read:

25218.8. (a) Except as provided in subdivision (b), a hazardous waste facilities permit shall be obtained for the operation of a household hazardous waste collection facility.

(b) A hazardous waste facilities permit is not required for the operation of a recycle-only household hazardous waste collection facility if all of the following conditions are met:

(1) The facility accepts only the following recyclable household hazardous waste materials for subsequent transport to an authorized recycling facility:

(A) Latex paint.

(B) Used oil.

(C) Used oil filters.

(D) Antifreeze.

(E) Spent lead-acid batteries.

(F) Household hazardous waste that is designated as a universal waste pursuant to this chapter or the regulations adopted by the department.

(G) Oil-based paint accepted pursuant to the requirements in Section 25217.2.1.

(2) No hazardous wastes or other materials are handled at the facility other than the materials specified in paragraph (1).

(3) The materials are transported to the collection facility by either of the following:

(A) The person who generated the material.

(i) Another person may transport the waste to the household hazardous waste collection facility on behalf of an individual who generated the waste, provided the individual who generated the waste is unable or unavailable to transport the waste, for reasons including, but not limited to, death, illness, or disability.

(ii) The person transporting waste on behalf of an individual pursuant to clause (i) shall provide a certification or signed statement to the household hazardous waste collection facility at the time of delivery attesting to the circumstances under which the person is delivering the other person's waste. The person shall also verify that the person is not receiving compensation for their services, and is not employed by an organization, whether for profit or not for profit, that provides a household hazardous waste transportation service.

(iii) A person transporting waste on behalf of an individual pursuant to clause (i) is subject to the same transportation limits that otherwise apply to the household.

(B) The authorized curbside household hazardous waste collection program or other household hazardous waste programs and sources, including load checking sources.

(4) The materials transported to the facility are transported in accordance with Section 25218.5.

(5) The materials collected are not stored at the facility for more than 180 days, except that less than one ton of spent lead-acid batteries may be stored at the facility for up to one year. More than one ton of spent lead-acid batteries shall not be stored at the facility for more than 180 days.

(6) The materials collected are managed in accordance with the hazardous waste labeling, containerization, emergency response, and personnel training requirements of this chapter.

(7) The facility is in compliance with Section 25218.2.

SEC. 8. 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.