

AMENDED IN ASSEMBLY JUNE 10, 2010  
AMENDED IN SENATE JANUARY 20, 2010  
AMENDED IN SENATE APRIL 15, 2009

**SENATE BILL**

**No. 26**

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**Introduced by Senator Simitian**

December 1, 2008

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~~An act to amend Section 48652 of the Public Resources Code, relating to recycling.~~ *An act to amend Sections 25218.1 and 25218.3 of the Health and Safety Code, relating to hazardous waste.*

LEGISLATIVE COUNSEL'S DIGEST

SB 26, as amended, Simitian. ~~Recycling: used lubricating oil: rerefining incentive.~~ *Hazardous waste: household hazardous waste collection facility: small quantity generators.*

*(1) Existing law authorizes the Department of Toxic Substances Control to allow a household hazardous waste collection facility to accept hazardous waste in specified amounts from a conditionally exempt small quantity generator (CESQG). A violation of the hazardous waste control laws is a crime.*

*This bill would additionally prohibit a household hazardous waste collection facility that is authorized by the department to accept hazardous waste from a CESQG from accepting more than 1000 kilograms of recyclable latex paint. The bill would also make a clarifying revision to the definition of CESQG.*

*Since a violation of the bill's prohibition would be a crime pursuant to other provisions of the hazardous waste control law, the bill would impose a state-mandated local program.*

(2) *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.*

~~The California Oil Recycling Enhancement Act, administered by the Department of Resources Recycling and Recovery, establishes the used oil recycling program, consisting of, among other things, a recycling incentive system. The act requires the department, on and after January 1, 2013, to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricants meeting specified requirements and requires the department to set the amount of the rerefining incentive, on and after January 1, 2014, at \$0.02 per gallon.~~

~~The act generally imposes charges on oil manufacturers and manufacturers of finished lubricants and requires the department to deposit the charges in the California Used Oil Recycling Fund, which is continuously appropriated to the department to pay, among other things, those rerefining incentives.~~

~~This bill would make technical nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
 State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. *Section 25218.1 of the Health and Safety Code*  
 2     *is amended to read:*  
 3     25218.1. For purposes of this article, the following terms have  
 4     the following meaning:  
 5     (a) “Conditionally exempt small quantity generator” or  
 6     “CESQG” means a business concern ~~which~~ *that* meets the criteria  
 7     specified in Section 261.5 of Title 40 of the Code of Federal  
 8     Regulations, *and for purposes of meeting the conditions of*  
 9     *subsection (a) of Section 261.5 of Title 40 of the Code of Federal*  
 10    *Regulations, only hazardous waste that is RCRA hazardous waste*  
 11    *shall be included in calculating the amount of hazardous waste*  
 12    *generated by that business concern.*  
 13    (b) “Curbside household hazardous waste collection program”  
 14    means a collection service authorized by a public agency that is

1 operated in accordance with Section 25163 and subdivision (d) of  
2 Section 25218.5 and that collects one or more of the following  
3 types of household hazardous waste:

- 4 (1) Latex paint.
- 5 (2) Used oil.
- 6 (3) Used oil filters.
- 7 (4) Household hazardous waste that is designated as a universal  
8 waste pursuant to this chapter or the regulations adopted by the  
9 department.

10 (c) “Door-to-door household hazardous waste collection  
11 program” or “household hazardous waste residential pickup  
12 service” means a program operated by a public agency, or its  
13 contractor, that collects household hazardous waste from individual  
14 residences, and transports that waste in an inspected and certified  
15 hazardous waste transport vehicle to an authorized household  
16 hazardous waste collection facility.

17 (d) “Household” means a single detached residence or a single  
18 unit of a multiple residence unit and all appurtenant structures.

19 (e) “Household hazardous waste” means any hazardous waste  
20 generated incidental to owning or maintaining a place of residence.  
21 Household hazardous waste does not include any waste generated  
22 in the course of operating a business concern at a residence.

23 (f) “Household hazardous waste collection facility” means a  
24 facility operated by a public agency, or its contractor, for the  
25 purpose of collecting, handling, treating, storing, recycling, or  
26 disposing of household hazardous waste, and its operation may  
27 include accepting hazardous waste from conditionally exempt  
28 small quantity generators if that acceptance is authorized pursuant  
29 to Section 25218.3. Household hazardous waste collection facilities  
30 include permanent household hazardous waste collection facilities,  
31 as defined in subdivision (h), temporary household hazardous  
32 waste collection facilities, as defined in subdivision (p),  
33 recycle-only household hazardous waste collection facilities, as  
34 defined in subdivision (n), curbside household hazardous waste  
35 collection programs, as defined in subdivision (b), and mobile  
36 household hazardous waste collection facilities, as defined in  
37 subdivision (g).

38 (g) “Mobile household hazardous waste collection facility”  
39 means a portable structure within which a household hazardous

1 waste collection facility is operated and that meets all of the  
2 following conditions:

3 (1) The facility is operated not more than four times in any one  
4 calendar year at the same location.

5 (2) The facility is operated not more than three consecutive  
6 weeks within a two-month period at the same location.

7 (3) Upon the termination of operations, all equipment, materials,  
8 and waste are removed from the site within 144 hours.

9 (h) “Permanent household hazardous waste collection facility”  
10 means a permanent or semipermanent structure at a fixed location  
11 that meets both of the following conditions:

12 (1) The facility is operated at the same location on a continuous,  
13 regular schedule.

14 (2) The hazardous waste stored at the facility is removed within  
15 one year after collection.

16 (i) “Public agency” means a state or federal agency, county,  
17 city, or district.

18 (j) “Quality assurance plan” means a written protocol prepared  
19 by a public agency that is designed to ensure that reusable  
20 household hazardous products or materials, as defined in  
21 subdivision (o), that are collected by a household hazardous waste  
22 collection program are evaluated to verify that product containers,  
23 contents, and labels are as they originated from the products’  
24 manufacturers. The public agency or a person authorized by the  
25 public agency, as defined in subdivision (k), shall design the  
26 protocol to ensure, using its best efforts with the resources  
27 generally available to the public agency, or the person authorized  
28 by the public agency, that products selected for distribution are  
29 appropriately labeled, uncontaminated, and appear to be as they  
30 originated from the product manufacturers. A quality assurance  
31 plan shall identify specific procedures for evaluating each container  
32 placed in a recycling or exchange program. The quality assurance  
33 plan shall also identify those products that shall not be accepted  
34 for distribution in a recycling or exchange program. Unacceptable  
35 products may include, but are not limited to, banned or unregistered  
36 agricultural waste, as defined in subdivision (a) of Section 25207.1,  
37 and products containing PCB, asbestos, or dioxin.

38 (k) “Person authorized by the public agency” means an  
39 employee of a public agency or a person from whom services are  
40 contracted by the public agency.

1 (l) “Recipient” means any person who accepts a reusable  
2 household hazardous product or material at a household hazardous  
3 waste collection facility operating pursuant to this article.

4 (m) “Recyclable household hazardous waste material” means  
5 any of the following:

6 (1) Latex paint.

7 (2) Used oil.

8 (3) Used oil filters.

9 (4) Antifreeze.

10 (5) Spent lead-acid batteries.

11 (6) Household hazardous waste that is designated as a universal  
12 waste pursuant to this chapter or the regulations adopted by the  
13 department, except a universal waste for which the department  
14 determines, by regulation, that there is no readily available  
15 authorized recycling facility capable of accepting and recycling  
16 that waste.

17 (n) “Recycle-only household hazardous waste collection facility”  
18 means a household hazardous waste collection facility that is  
19 operated in accordance with Section 25218.8 and accepts for  
20 recycling only recyclable household hazardous waste materials.

21 (o) “Reusable household hazardous product or material” means  
22 a container of household hazardous product, or a container of  
23 hazardous material generated by a conditionally exempt small  
24 quantity generator, that has been received by a household hazardous  
25 waste facility operating pursuant to this article and that is offered  
26 for distribution in a materials exchange program to a recipient, as  
27 defined in subdivision (l), in accordance with a quality assurance  
28 plan, as defined in subdivision (j).

29 (p) “Temporary household hazardous waste collection facility”  
30 means a household hazardous waste collection facility that meets  
31 both of the following conditions:

32 (1) The facility is operated not more than once for a period of  
33 not more than two days in any one month at the same location.

34 (2) Upon termination of operations, all equipment, materials,  
35 and waste are removed from the site within 144 hours.

36 *SEC. 2. Section 25218.3 of the Health and Safety Code is*  
37 *amended to read:*

38 25218.3. (a) The department may authorize any household  
39 hazardous waste collection facility to accept hazardous waste from  
40 conditionally exempt small quantity generators.

1 (b) A household hazardous waste collection facility ~~which that~~  
 2 is authorized to accept hazardous waste from CESQGs pursuant  
 3 to subdivision (a) shall not accept more than 100 kilograms of  
 4 hazardous waste, ~~or~~ 1 kilogram of extremely hazardous waste, *or*  
 5 *1000 kilograms of recyclable latex paint* from any one CESQG in  
 6 a calendar month.

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

11 (d) The department may adopt and revise regulations for  
 12 household hazardous waste collection facilities, including those  
 13 which are authorized to accept hazardous waste from CESQGs.  
 14 The regulations shall provide for all of the following:

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

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

20 (3) Ensuring the compliance of participating CESQGs with the  
 21 monthly quantity limitations specified in Section 261.5 of Title  
 22 40 of the Code of Federal Regulations.

23 *SEC. 3. No reimbursement is required by this act pursuant to*  
 24 *Section 6 of Article XIII B of the California Constitution because*  
 25 *the only costs that may be incurred by a local agency or school*  
 26 *district will be incurred because this act creates a new crime or*  
 27 *infraction, eliminates a crime or infraction, or changes the penalty*  
 28 *for a crime or infraction, within the meaning of Section 17556 of*  
 29 *the Government Code, or changes the definition of a crime within*  
 30 *the meaning of Section 6 of Article XIII B of the California*  
 31 *Constitution.*

32 ~~SECTION 1. Section 48652 of the Public Resources Code is~~  
 33 ~~amended to read:~~

34 ~~48652. (a) Except as provided in subdivision (d), the~~  
 35 ~~department shall set the recycling incentive at not less than ten~~  
 36 ~~cents (\$0.10) per quart. The department may set the amount at an~~  
 37 ~~amount higher than ten cents (\$0.10) if the department determines~~  
 38 ~~that a higher amount is necessary to promote the collection and~~  
 39 ~~recycling of used lubricating oil and sufficient funds are available~~  
 40 ~~in the fund.~~

1 ~~(b) On and after January 1, 2014, the department shall set the~~  
2 ~~rerefining incentive at not less than two cents (\$0.02) per gallon.~~  
3 ~~On and after January 1, 2015, the department may set the rerefining~~  
4 ~~incentive at a higher amount if the department determines that a~~  
5 ~~higher amount is necessary to promote rerefined oil and sufficient~~  
6 ~~funds are available in the fund.~~

7 ~~(c) The department shall not change the amount of an incentive~~  
8 ~~paid pursuant to this section until at least one year has passed since~~  
9 ~~the amount was last set. The amount of an incentive paid by the~~  
10 ~~department shall remain at the previous amount for one month~~  
11 ~~after setting the incentive at a different amount. The department~~  
12 ~~shall not raise the amount of an incentive paid unless it finds that~~  
13 ~~the raise will not adversely affect funding required pursuant to~~  
14 ~~Sections 48631, 48653, and 48660.5.~~

15 ~~(d) The department shall set the recycling incentive for used~~  
16 ~~lubricating oil generated by a certified used oil collection center~~  
17 ~~and an industrial generator at not less than four cents (\$0.04) per~~  
18 ~~quart. The department may set the amount higher than four cents~~  
19 ~~(\$0.04) if the department determines that a higher amount is~~  
20 ~~necessary to promote the collection and recycling of used~~  
21 ~~lubricating oil from these generators and sufficient funds are~~  
22 ~~available.~~

23 ~~(e) For purposes of this section, “department” means the~~  
24 ~~Department of Resources Recycling and Recovery.~~