

**Senate Bill No. 1839**

CHAPTER 226

An act to amend Section 25205.14 of the Health and Safety Code, and to amend Section 43152.15 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1839, Committee on Revenue and Taxation. Hazardous waste: fees: prepayment.

The Hazardous Substance Tax Law establishes procedures for the collection of the fees imposed upon the management of hazardous waste, and provides for the prepayment of specified generator fees. A violation of that law is a crime.

This bill would eliminate, as specified, requirements governing the prepayment of those generator fees with respect to generators with minimal liability.

Existing law requires each owner or operator of a hazardous waste facility to pay a facility fee for each reporting period, as specified.

This bill would correct an erroneous reference in those provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 25205.14 of the Health and Safety Code is amended to read:

25205.14. (a) Except as provided in Section 25404.5, the owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall pay a fee to the board per facility or transportable treatment unit for each reporting period, or portion thereof. The fee for the 1996 reporting period shall be one thousand two hundred thirty-six dollars (\$1,236). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. The owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each modification of the notification required by Sections 67450.2 and 67450.3 of Title 22 of the California Code of Regulations, as those



sections read on January 1, 1995, or as those sections may subsequently be amended. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known owners or operators operating pursuant to a permit-by-rule who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any owner or operator authorized to operate pursuant to a permit-by-rule, who is not exempted from this fee pursuant to Section 25404.5, within 60 days after the owner or operator is authorized.

(b) Except as provided in Section 25404.5, a generator operating under a grant of conditional authorization pursuant to Section 25200.3 shall pay a fee to the board per facility for each reporting period, or portion thereof, unless the generator is subject to a fee under a permit-by-rule. The fee for the 1996 reporting period shall be one thousand two hundred thirty-six dollars (\$1,236). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. A generator shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each notification amendment required by subdivision (k) of Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known generators operating pursuant to a grant of conditional authorization under Section 25200.3 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator authorized to operate under a grant of conditional authorization, who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of notification.

(c) Except as provided in Section 25404.5, a generator performing treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5 shall pay one hundred dollars (\$100) to the board per facility for the initial operating period, or portion thereof, and fifty dollars (\$50) every reporting period thereafter, unless that generator is subject to a fee under a permit-by-rule or a conditional authorization pursuant to Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known facilities performing treatment conditionally exempted by Section 25144.6 or subdivision (a) or (c) of Section 25201.5 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator who notifies the department that the generator is conducting a conditionally exempt treatment operation, and who is



not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of the notification.

(d) The fees imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

SEC. 2. Section 43152.15 of the Revenue and Taxation Code is amended to read:

43152.15. (a) In addition to the requirements imposed pursuant to Sections 43152.7 and 43152.11, every generator subject to the fees specified in Sections 25205.5 and 25205.9 of the Health and Safety Code shall make a prepayment of the fee by site to the board which is due and payable on or before the last day of August of each calendar year. The prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of the prepayment shall be not less than either of the following:

(1) One hundred percent of the applicable fee imposed on the generator, based on the generator's fee category as specified in Section 25205.5 of the Health and Safety Code for the total volume of hazardous waste generated by site during the period January 1 to June 30, inclusive, of the current calendar year in which the prepayment is due. The prepayment may be offset by fees paid by the generator for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department which includes the following:

(A) The local fees are paid for the current calendar year for which the prepayment is due or the local fees are paid for the preceding calendar year, if fees have not been paid for the current year.

(B) The offset is subject to the limitations and requirements specified in subdivision (c) of Section 43152.7.

(2) Fifty percent of the generator fee liability paid to the board by site for the preceding calendar year provided the generator paid a generator fee liability to the board for the preceding calendar year for that site.

(c) The board shall credit the amount of the prepayment against the amount of the fee due and payable for the calendar year in which the prepayment is due.

(d) Notwithstanding any other provision in this section, the prepayment of a generator fee shall not be required for any amount due that is less than five hundred dollars (\$500), or for any other amount due if the board determines that prepayment is not in the best economic interest of the program.

(e) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by the due date specified in subdivision (a) shall also pay penalties and interest in accordance with Sections 43155 and 43156.



SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid the incurring of unnecessary administrative costs by the State Board of Equalization in 1996 in connection with the processing of returns covering prepayment of generator fee liability, and to prevent operators from paying an increased fee, it is necessary that this act take effect immediately.

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