

AMENDED IN SENATE AUGUST 19, 1998
AMENDED IN SENATE JUNE 30, 1998
AMENDED IN SENATE APRIL 2, 1998
AMENDED IN ASSEMBLY JANUARY 22, 1998
AMENDED IN ASSEMBLY JANUARY 16, 1998
AMENDED IN ASSEMBLY JANUARY 5, 1998
AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 228

Introduced by Assembly Member Migden

February 5, 1997

An act to amend Sections 42825, 42835, 42850, and 42855 of the Public Resources Code, relating to waste tires.

LEGISLATIVE COUNSEL'S DIGEST

AB 228, as amended, Migden. Solid waste: tires.

(1) Existing law, the California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Existing law imposes civil and criminal penalties for directing or transporting waste tires to waste tire facilities that have not been issued a permit and provides for specified penalties to be deposited in the

California Tire Recycling Management Fund, to be available for specified purposes.

This bill would also impose criminal penalties for abandoning waste tires at an unauthorized facility, thereby imposing a state-mandated local program by creating a new crime.

The bill would permit the board to designate, in writing, a city, county, or city and county, upon request thereby, to exercise the enforcement authority granted to the board for violations concerning waste tire facilities. The bill would, if the action is brought by an attorney who represents the city, county, or city and county, permit the penalties collected to be retained by the designated city, county, or city and county. The bill would make related changes.

(2) This bill would incorporate additional changes in Sections 42825, 42835, and 42850 of the Public Resources Code, proposed by AB 2181, to be operative only if AB 2181, and this bill are both chaptered and become effective January 1, 1999, and this bill is chaptered last.

(3) 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. State-mandated local program: yes.

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

1 SECTION 1. Section 42825 of the Public Resources
2 Code is amended to read:
3 42825. Any person who accepts waste tires at a major
4 waste tire facility that has not been issued a permit or an
5 authorization to operate from the board, or who
6 knowingly directs, transports, or abandons waste tires to
7 or at a major waste tire facility that has not been issued
8 a permit or an authorization to operate from the board
9 shall, upon conviction, be punished by a fine of not less
10 than one thousand dollars (\$1,000) or more than ten



1 thousand dollars (\$10,000) for each day of violation, by
2 imprisonment in the county jail for not more than one
3 year, or by both that fine and imprisonment.

4 SEC. 1.5. Section 42825 of the Public Resources Code
5 is amended to read:

6 42825. (a) Any person who accepts waste tires at a
7 major waste tire facility that has not been issued a permit
8 or an authorization to operate from the board, or who
9 knowingly directs, transports, or abandons waste tires to
10 or at a major waste tire facility that has not been issued
11 a permit or an authorization to operate from the board
12 shall, upon conviction, be punished by a fine of not less
13 than one thousand dollars (\$1,000) or more than ten
14 thousand dollars (\$10,000) for each day of violation, by
15 imprisonment in the county jail for not more than one
16 year, or by both that fine and imprisonment.

17 (b) For purposes of subdivision (a), “each day of
18 violation” means each day on which a violation continues.
19 In any case where a person has accepted waste tires at a
20 major waste tire facility, or knowingly directed or
21 transported waste tires to a major waste tire facility, that
22 has not been issued a permit, in violation of subdivision
23 (a), each day that the waste tires remain at the facility
24 and the person has knowledge thereof is a separate
25 additional violation, unless the person has filed a report
26 with the board disclosing the violation and is in
27 compliance with any order regarding the waste tires
28 issued by the board, a hearing officer, or a court of
29 competent jurisdiction.

30 SEC. 2. Section 42835 of the Public Resources Code is
31 amended to read:

32 42835. Any person who accepts waste tires at a minor
33 waste tire facility that has not been issued a permit or an
34 authorization to operate from the board, or who
35 knowingly directs, transports, or abandons waste tires to
36 or at a minor waste tire facility that has not been issued
37 a permit or an authorization to operate from the board
38 shall, upon conviction, be punished by a fine of not less
39 than five hundred dollars (\$500) or more than five
40 thousand dollars (\$5,000) for each day of violation, by

1 imprisonment in the county jail for not more than one
2 year, or by both that fine and imprisonment.

3 SEC. 2.5. Section 42835 of the Public Resources Code
4 is amended to read:

5 42835. (a) Any person who accepts waste tires at a
6 minor waste tire facility that has not been issued a permit
7 or an authorization to operate from the board, or who
8 knowingly directs, transports, or abandons waste tires to
9 or at a minor waste tire facility that has not been issued
10 a permit or an authorization to operate from the board
11 shall, upon conviction, be punished by a fine of not less
12 than five hundred dollars (\$500) or more than five
13 thousand dollars (\$5,000) for each day of violation, by
14 imprisonment in the county jail for not more than one
15 year, or by both that fine and imprisonment.

16 (b) For purposes of subdivision (a), “each day of
17 violation” means each day on which a violation continues.
18 In any case where a person has accepted waste tires at a
19 major waste tire facility, or knowingly directed or
20 transported waste tires to a major waste tire facility, that
21 has not been issued a permit, in violation of subdivision
22 (a), each day that the waste tires remain at the facility
23 and the person has knowledge thereof is a separate
24 additional violation, unless the person has filed a report
25 with the board disclosing the violation and is in
26 compliance with any order regarding the waste tires
27 issued by the board, a hearing officer, or a court of
28 competent jurisdiction.

29 SEC. 3. Section 42850 of the Public Resources Code is
30 amended to read:

31 42850. (a) Any person who intentionally or
32 negligently violates any provision of this chapter, or any
33 permit, rule, regulation, standard, or requirement issued
34 or adopted pursuant to this chapter, is liable for a civil
35 penalty not to exceed ten thousand dollars (\$10,000) for
36 each violation of a separate provision or, for continuing
37 violations, for each day that the violation continues.

38 (b) Liability under this section may be imposed in a
39 civil action or liability may be imposed administratively
40 pursuant to this article.



1 (c) Upon request of a city, county, or city and county,
2 that city, county, or city and county may be designated,
3 in writing, by the board, to exercise the enforcement
4 authority granted to the board under this chapter. Any
5 city, county, or city and county so designated shall follow
6 the same procedures set forth for the board under this
7 article. This designation shall not limit the authority of the
8 board to take action it deems necessary or proper to
9 ensure the enforcement of this chapter.

10 SEC. 3.5. Section 42850 of the Public Resources Code
11 is amended to read:

12 42850. (a) Any person who negligently violates any
13 provision of this chapter, or any permit, rule, regulation,
14 standard, or requirement issued or adopted pursuant to
15 this chapter, is liable for a civil penalty of not less than five
16 hundred dollars (\$500) or more than five thousand dollars
17 (\$5,000), for each violation of a separate provision or, for
18 continuing violations, for each day that the violation
19 continues.

20 (b) Liability under this section may be imposed in a
21 civil action or liability may be imposed administratively
22 pursuant to this article.

23 (c) Upon request of a city, county, or city and county,
24 that city, county, or city and county may be designated,
25 in writing, by the board, to exercise the enforcement
26 authority granted to the board under this chapter. Any
27 city, county, or city and county so designated shall follow
28 the same procedures set forth for the board under this
29 article. This designation shall not limit the authority of the
30 board to take action it deems necessary or proper to
31 ensure to enforcement of this chapter.

32 SEC. 4. Section 42855 of the Public Resources Code is
33 amended to read:

34 42855. All penalties collected under Section 42850
35 shall be deposited in the California Tire Recycling
36 Management Fund created pursuant to Section 42885 if
37 the attorney who brought the action represented the
38 board, or shall be retained by a city, county, or city and
39 county designated pursuant to subdivision (c) of Section
40 42850, if the attorney who brought the action represents



1 the city, county, or city and county. *The moneys retained*
2 *by the city, county, or city and county shall be expended*
3 *on enforcement and cleanup required under this*
4 *chapter, including, but not limited to, the prosecution of*
5 *enforcement actions.*

6 SEC. 5. Section 1.5 of this bill incorporates
7 amendments to Section 42825 of the Public Resources
8 Code proposed by both this bill and AB 2181. It shall only
9 become operative if (1) both bills are enacted and
10 become effective on or before January 1, 1999, (2) each
11 bill amends Section 42825 of the Public Resources Code,
12 and (3) this bill is enacted after AB 2181, in which case
13 Section 1 of this bill shall not become operative.

14 SEC. 6. Section 2.5 of this bill incorporates
15 amendments to Section 42835 of the Public Resources
16 Code proposed by both this bill and AB 2181. It shall only
17 become operative if (1) both bills are enacted and
18 become effective on or before January 1, 1999, (2) each
19 bill amends Section 42835 of the Public Resources Code,
20 and (3) this bill is enacted after AB 2181, in which case
21 Section 2 of this bill shall not become operative.

22 SEC. 7. Section 3.5 of this bill incorporates
23 amendments to Section 42850 of the Public Resources
24 Code proposed by both this bill and AB 2181. It shall only
25 become operative if (1) both bills are enacted and
26 become effective on or before January 1, 1999, (2) each
27 bill amends Section 42850 of the Public Resources Code,
28 and (3) this bill is enacted after AB 2181, in which case
29 Section 3 of this bill shall not become operative.

30 SEC. 8. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution for certain costs that may be incurred by a
33 local agency or school district because in that regard this
34 act creates a new crime or infraction, eliminates a crime
35 or infraction, or changes the penalty for a crime or
36 infraction, within the meaning of Section 17556 of the
37 Government Code, or changes the definition of a crime
38 within the meaning of Section 6 of Article XIII B of the
39 California Constitution.



1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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