

ASSEMBLY BILL

No. 833

Introduced by Assembly Member Ruskin

February 22, 2007

An act to add Article 4 (commencing with Section 25546) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to toxic chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 833, as introduced, Ruskin. California Toxic Release Inventory Program.

Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.

This bill would enact the California Toxic Release Inventory Program Act of 2007 to require Cal-EPA to establish the California Toxic Release Inventory Program if the Secretary of Cal-EPA determines there has been a specified change made to EPCRA, or the regulations adopted pursuant to EPCRA, so as to make the act or regulations less stringent or to reduce or lessen any reporting requirement imposed pursuant to the federal regulations, that reduces the timely access by the public to accurate information about chemical releases. The bill would prohibit the secretary from making the determination if there are legal challenges to the changes to EPCRA or the federal regulations that result in a stay or injunction of the changes. The bill would require the secretary to

make the determination within 90 calendar days from the date of adoption of the changes to EPCRA or the federal regulations, or from the date on which the stay or injunction on the changes is dissolved, whichever is later. The bill would require that program to impose the same requirements as EPCRA within this state, including, but not limited to, any regulations adopted pursuant to EPCRA, as in effect on January 1, 2007.

The bill would require the agency, no later than one calendar year after the date when the secretary makes that determination, to adopt regulations to implement the program that are identical in application to the federal regulations in effect on January 1, 2007. The bill would require the adopted regulations to apply retroactively to the effective date of the changes made to EPCRA or the federal regulations to ensure no gap in data collection. The bill would require the agency to determine whether existing California specific reporting requirements can substitute, in whole or in part, for the information that would be required under the adopted regulations. The bill would require the adopted regulations to use the same reporting forms used for the EPCRA prior to the changes in the federal reporting requirements unless the agency determines that an alternative form is necessary to substitute chemical release data reported under existing California specific programs.

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

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

1 SECTION 1. Article 4 (commencing with Section 25546) is
 2 added to Chapter 6.95 of Division 20 of the Health and Safety
 3 Code, to read:
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 5 Article 4. California Toxic Release Inventory Program Act of
 6 2007
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 8 25546. The Legislature finds and declares all of the following:
 9 (a) The people of California have the right to know the hazards
 10 posed by toxic releases near their homes, schools, and workplaces.
 11 They have the right to know how much pollution is being released
 12 into the water, air, and soil.
 13 (b) Since its inception in 1986, as part of the federal Emergency
 14 Planning and Community Right-to-Know Act of 1986, (EPCRA;

1 Chapter 116 (commencing with Section 11001) of Title 42 of the
2 United States Code), the Toxic Release Inventory (TRI) has
3 supplied this essential information on toxic chemical releases to
4 the public. The goal of the TRI is to empower citizens, through
5 information, to hold companies and local governments accountable
6 for how toxic chemicals are managed.

7 (c) It is the intent of the Legislature that California citizens do
8 not lose access to the information necessary to understand the
9 potential threats to public health and safety and the environment
10 that is available through the Toxic Release Inventory as it existed
11 on January 1, 2007, including the ease of accessibility.

12 25546.1. This article shall be known, and may be cited, as the
13 “California Toxic Release Inventory Program Act of 2007.”

14 25546.2. For purposes of this article, the following definitions
15 shall apply:

16 (a) “Agency” means the California Environmental Protection
17 Agency.

18 (b) “Federal act” means the federal Emergency Planning and
19 Community Right to Know Act of 1986 (EPCRA; Chapter 116
20 (commencing with Section 11001) of Title 42 of the United States
21 Code).

22 (c) “Federal regulations” means the regulations found in Part
23 372 (commencing with Section 372.1) of Subchapter J of Chapter
24 1 of Title 40 of the Code of Federal Regulations, as those
25 regulations read on January 1, 2007.

26 (d) “Program” means the California Toxic Release Inventory
27 Program established pursuant to this article.

28 (e) “Secretary” means the Secretary for Environmental
29 Protection.

30 25546.3. (a) The agency shall establish the California Toxic
31 Release Inventory Program if the secretary makes, after a public
32 hearing and receipt and review of public comment, either of the
33 following determinations:

34 (1) There has been a change made to the federal act to repeal
35 the federal act or otherwise lessen or make less stringent any
36 requirement imposed pursuant to the federal act in effect on January
37 1, 2007, that reduces the timely access by the public to accurate
38 information about chemical releases.

39 (2) A federal regulation adopted pursuant to the federal act is
40 repealed, amended, or otherwise revised so as to make the

1 regulation less stringent or to reduce or lessen any reporting
2 requirement imposed pursuant to the federal regulations in effect
3 on January 1, 2007, that reduces timely access by the public to
4 accurate information about chemical releases.

5 (b) The secretary shall not make a determination pursuant to
6 subdivision (a) if there are legal challenges to the changes made
7 to the federal act or federal regulations that result in the changes
8 being stayed or enjoined by a court.

9 (c) The secretary shall make a determination pursuant to
10 subdivision (a) within 90 calendar days from the date of the
11 adoption of the changes in the federal act or federal regulations,
12 or from the date on which a stay or injunction against the
13 implementation of the changes in the federal act or federal
14 regulations is dissolved, whichever is later.

15 (d) The program established pursuant to this article shall impose
16 requirements within this state that are the same as the requirements
17 imposed pursuant to the federal act, including, but not limited to,
18 any regulation adopted pursuant to the federal act that is in effect
19 on January 1, 2007.

20 25546.4. (a) No later than one calendar year after the date
21 when the secretary makes the determination specified in
22 subdivision (a) of Section 25546.3, the agency shall adopt
23 regulations to implement the program that are identical in
24 application to the federal regulations in effect on January 1, 2007.

25 (b) The regulations adopted pursuant to subdivision (a) shall
26 require that the information be reported retroactively to the
27 effective date of the change in the federal act or federal regulations
28 as to ensure no gap in data collection.

29 (c) The agency shall evaluate existing California specific
30 reporting requirements and determine if this information can
31 substitute, in whole or in part, for the information that would be
32 required under the adopted regulations. This review shall include,
33 but not be limited to, reporting required pursuant to the Air Toxic
34 “Hot Spot” Information and Assessment Act (Part 6 (commencing
35 with Section 44300) of Division 26), the Hazardous Waste Source
36 Reduction and Management Review Act of 1989 (Article 11.9
37 (commencing with Section 25244.12) of Chapter 6.5), and
38 reporting required by the regional water quality control boards
39 pursuant to the National Pollution Discharge Elimination System
40 permits and waste discharge requirements.

1 (d) The regulations shall prescribe the same reporting forms in
2 use at the federal level prior to the removal, relaxation, or reduction
3 in federal reporting requirements, unless the agency determines
4 that an alternative form is necessary to substitute chemical release
5 data reported under existing California specific programs, to ensure
6 that the information is consolidated. The information shall be made
7 publicly available in a manner similar to, and provide for
8 convenient access, as the federal Toxic Release Inventory as it
9 existed on January 1, 2007.

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