

AMENDED IN SENATE SEPTEMBER 5, 2007

AMENDED IN SENATE AUGUST 20, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 833**

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**Introduced by Assembly Member Ruskin**

February 22, 2007

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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 amended, 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 the Department of Toxic Substances Control (department) to develop and ~~implement~~, *implement*, by January 1, 2009, the California Toxic Release Inventory Program to require a facility to submit a toxic chemical release form to the department, if the facility

is not required to submit a toxic chemical release form containing that same information pursuant to the existing federal regulations, as defined.

The bill would require the information to be reported under the program to be reported retroactively to the effective date of the changes made to EPCRA or the existing federal regulations to ensure no gap in data collection. The bill would require the department to determine whether existing California-specific reporting requirements can substitute, in whole or in part, for the information that would be required under the program. The bill would require the ~~program~~ facility to utilize the same reporting forms required by the existing regulations, unless the department determines that an alternative form is necessary to substitute chemical release data reported under existing California-specific programs.

The department would be authorized to adopt regulations to implement the program as emergency regulations and would require the Office of Administrative Law to deem these regulations to be necessary for the immediate preservation of the public peace, health, safety, and general welfare. *The bill would also prohibit the department, if there is a legal challenge to the changes made to a specified provision of the federal act or the federal regulations adopted pursuant to that provision, that result in the changes being stayed or enjoined by a court, from requiring a facility to submit a toxic chemical release form, until the department determines that the court action has been settled or adjudicated.*

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:
- 4
- 5 Article 4. California Toxic Release Inventory Program Act of
- 6 2007
- 7
- 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.

1 (b) Since its inception in 1986, as part of the federal Emergency  
2 Planning and Community Right-to-Know Act of 1986, (EPCRA;  
3 Chapter 116 (commencing with Section 11001) of Title 42 of the  
4 United States Code), the ~~Toxic~~ *Toxics* Release Inventory (TRI)  
5 has supplied this essential information on toxic chemical releases  
6 to the public. The goal of the TRI is to empower citizens, through  
7 information, to hold companies and local governments accountable  
8 for how toxic chemicals are managed.

9 (c) It is the intent of the Legislature that California citizens do  
10 not lose access to the information necessary to understand the  
11 potential threats to public health and safety and the environment  
12 that is available through the ~~Toxic~~ *Toxics* Release Inventory as it  
13 existed on January 1, 2006, including the ease of accessibility.

14 25546.1. This article shall be known, and may be cited, as the  
15 “California Toxic Release Inventory Program Act of 2007.”

16 25546.2. For purposes of this article, the following definitions  
17 shall apply:

18 (a) “Department” means the Department of Toxic Substances  
19 Control.

20 (b) “Facility” means a facility subject to the federal act, as  
21 provided by Section 11002 of Title 42 of the United States Code,  
22 as that section read on January 1, 2006, and that is subject to the  
23 existing federal regulations.

24 (c) “Existing federal regulations” mean the regulations found  
25 in Part 372 (commencing with Section 372.1) of Subchapter J of  
26 Chapter 1 of Title 40 of the Code of Federal Regulations, as those  
27 regulations read on January 1, 2006, except as provided in  
28 subdivision ~~(e)~~ (b) of Section 25546.3.

29 (d) “Federal act” means the federal Emergency Planning and  
30 Community Right-to-Know Act of 1986 (EPCRA; Chapter 116  
31 (commencing with Section 11001) of Title 42 of the United States  
32 Code).

33 (e) “Federal regulations” mean the regulations found in Part  
34 372 (commencing with Section 372.1) of Subchapter J of Chapter  
35 1 of Title 40 of the Code of Federal Regulations, as those  
36 regulations may be revised or amended on or after January 1, 2006.

37 (f) “Program” means the California Toxic Release Inventory  
38 Program established pursuant to this article.

39 (g) “Toxic chemical” means a substance listed pursuant to  
40 Subpart D (commencing with Section 372.65) of Part 372 of

1 Subchapter J of Chapter 1 of Title 40 of the Code of Federal  
2 Regulations, as those regulations read on January 1, 2006, and not  
3 as those regulations may be subsequently amended, revised, or  
4 repealed after that date, except as provided in subdivision ~~(e)~~ (b)  
5 of Section 25546.3.

6 (h) “Toxic chemical release form” means the form required to  
7 be completed by the owner or operator of a facility pursuant to  
8 Section 11023 of Title 42 of the United States Code, as that section  
9 read on January 1, 2006.

10 (i) “Threshold quantity” means the amount of a toxic chemical  
11 specified in Sections 372.25, 372.27, and 372.28 of Title 40 of the  
12 Code of Federal Regulations as those regulations read on January  
13 1, 2006, and not as those regulations may be subsequently  
14 amended, revised, or repealed after that date, except as provided  
15 in subdivision (b) of Section 25546.3.

16 25546.3. (a) On or before January 1, 2009, the department  
17 shall develop and implement the California Toxic Release  
18 Inventory Program pursuant to this article.

19 (b) Notwithstanding any other provision of this article, the  
20 department shall, when implementing the program, comply with  
21 the requirements of the federal act with regard to ensuring that any  
22 requirement imposed pursuant to this article is no less stringent  
23 than, or is not otherwise preempted by, any requirement imposed  
24 pursuant to the federal act, including any changes to the existing  
25 federal regulations that decrease the threshold quantity or include  
26 additional toxic chemicals subject to the federal act.

27 (c) *If there is a legal challenge to changes made to Section 312*  
28 *of the federal act (42 U.S.C. Sec. 11022) or the federal regulations*  
29 *adopted pursuant to that section, that result in the changes being*  
30 *stayed or enjoined by a federal court, the department shall not*  
31 *require a facility to submit a toxic chemical release form pursuant*  
32 *to Section 25546.4 until the department determines that the court*  
33 *action has been settled or adjudicated.*

34 25546.4. (a) The program established pursuant to this article  
35 shall require a facility to submit a toxic chemical release form to  
36 the department, in accordance with the existing federal regulations,  
37 if the facility is not required by the federal regulations to submit  
38 a toxic chemical release form containing that same information.

39 (b) The program adopted pursuant to subdivision (a) shall  
40 require that the information be reported retroactively to the

1 effective date of the change in the federal act or the existing federal  
2 regulations as to ensure no gap in data collection.

3 (c) The department shall evaluate California-specific reporting  
4 requirements and determine if this information can substitute, in  
5 whole or in part, for the information that would be required under  
6 the program. This review shall include, but not be limited to,  
7 reporting required pursuant to the Air Toxic “Hot Spot”  
8 Information and Assessment Act (Part 6 (commencing with Section  
9 44300) of Division 26), the Hazardous Waste Source Reduction  
10 and Management Review Act of 1989 (Article 11.9 (commencing  
11 with Section 25244.12) of Chapter 6.5), and reporting required by  
12 the regional water quality control boards pursuant to the National  
13 Pollution Discharge Elimination System permits and waste  
14 discharge requirements.

15 (d) The department shall require the ~~program~~ *facility* to utilize  
16 the same reporting forms in use, pursuant to the existing federal  
17 regulations, unless the department determines that an alternative  
18 form is necessary to substitute chemical release data reported under  
19 existing California-specific programs, to ensure that the information  
20 is consolidated. The department shall also prescribe the manner  
21 in which the information in the forms shall be transmitted.

22 (e) The department shall post a copy of each form received from  
23 each facility that is subject to the program on the department’s  
24 publicly available Internet Web site.

25 25546.5. (a) The department may adopt regulations to  
26 implement the program as emergency regulations. The emergency  
27 regulations adopted pursuant to this section shall be adopted by  
28 the department in accordance with Chapter 3.5 (commencing with  
29 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
30 Code, and for the purposes of that chapter, including Section  
31 11349.6 of the Government Code, the adoption of these regulations  
32 is hereby deemed an emergency and shall be considered by the  
33 Office of Administrative Law as necessary for the immediate  
34 preservation of the public peace, health, safety, and general welfare.

35 (b) Notwithstanding Chapter 3.5 (commencing with Section  
36 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
37 any emergency regulations adopted by the department pursuant to  
38 this section shall be filed with, but not be repealed by, the Office  
39 of Administrative Law and shall remain in effect for a period of

- 1 two years or until revised by the department, whichever occurs
- 2 sooner.

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