
Independent Review Panel

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

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Governor

Report for Independent Review Panel on Legislation Pertaining to DTSC

September 11, 2017

The following legislation includes measures that may be of interest to the Independent Review Panel (IRP) and is not meant to be a comprehensive list of DTSC-tracked bills. Measures that pertained to DTSC earlier in the session, but no longer pertain, are not included. IRP support staff prepared this report independently of the department.

AB 97 (Ting) Budget Act of 2017

Introduced: 1/10/17

Status: 6/27/17-Chaptered by Secretary of State – Chapter No. 14, Statutes of 2017

Summary: Makes appropriations for the support of state government for the 2017-18 fiscal year.

AB 245 (Quirk) Hazardous waste enforcement

Introduced: 1/30/17

Last amend: 9/1/17

Status: 9/1/17-S. Read second time and amended. Ordered returned to second reading.

Summary: Existing law permits DTSC or an agency authorized to implement and enforce certain laws relating to hazardous materials, known as a unified program agency, to enforce the Hazardous Waste Control Law. Existing law authorizes the department or a unified program agency to issue an order that requires a violation to be corrected and imposes an administrative penalty when there is a violation of the hazardous waste control laws, laws regulating hazardous substances, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those laws. Under existing law, a person who does not comply with the order is subject to a civil penalty of not more than \$25,000 for each day of noncompliance. In lieu of an administrative penalty, existing law makes any person who intentionally or negligently makes a false statement or representation for purposes of compliance with the hazardous waste control laws, violates a provision of the hazardous waste control laws, disposes or causes the disposal of a hazardous waste at an unauthorized site, or treats or stores a hazardous waste at an unauthorized site liable for a civil penalty not to exceed \$25,000, as specified. This bill would increase these administrative and civil penalties to \$70,000.

AB 247 (Garcia, C.) Public health: childhood lead poisoning: Lead Advisory Task Force

Introduced: 1/30/17

Last amend: 7/11/17

Status: 9/5/17-S. Read second time. Ordered to third reading.

Summary: Would require, by April 1, 2018, the Office of Environmental Health Hazard Assessment to convene a Lead Advisory Task Force, with a prescribed membership, to review and advise, as provided,

regarding policies and procedures to reduce childhood lead poisoning in the state. The bill would require the task force to publish on OEHHA's Internet Web site a recommended regulatory agenda on or before April 1, 2020, that would identify sources of lead and ensure that regulatory standards are protective of health in the state, as specified, and to update the regulatory agenda on or before April 1, 2022. These provisions would become inoperative on April 1, 2022.

AB 248 (Reyes) Hazardous waste: facilities: permits.

Introduced: 1/30/2017

Last amend: 5/26/17

Status: 7/18/17-S. Read second time. Ordered to third reading.

Summary: Existing law, as part of the hazardous waste control law, requires a facility handling hazardous waste to apply for and obtain a hazardous waste facilities permit from DTSC. Existing law requires the owner or operator of a facility intending to extend the facility's permit to submit a complete Part A application for a permit renewal before the fixed term of the permit expires, and, at any time following the submittal of the Part A application, to submit a complete Part B application, or any portion of that application, and other relevant information, if requested by the department. Existing law provides that when a complete Part A renewal application and any other requested information has been submitted before the end of the permit's fixed term, the permit is deemed extended until the application is approved or denied and the owner has exhausted all applicable rights of appeal. This bill would require, for a hazardous waste facilities permit that will expire on or before July 1, 2020, the owner or operator of a facility intending to extend the term of that permit to submit a Part A and Part B application for a permit renewal at least 6 months before the fixed term of the permit expires. The bill would require, for a hazardous waste facilities permit that will expire after July 1, 2020, the owner or operator to submit a Part A and Part B application for a permit renewal at least 2 years before the fixed term of the permit expires. The bill would provide that if a Part A and Part B renewal application and any other requested information have been submitted at least 6 months or at least 2 years, as applicable, before the end of the permit's fixed term, the permit is deemed extended until the application is approved or denied and the owner has exhausted all applicable rights of appeal. The bill would also require the department, no later than 90 days after receiving an application for a hazardous waste facilities permit, to post on its Internet Web site a timeline with the estimated dates of key milestones in the application review process, to note on its Internet Web site that these dates are estimates, and to update the dates as needed.

AB 421 (Santiago) Hazardous substances: liability: responsible parties

Introduced: 2/9/17

Last amend: 2/9/17

Status: 5/1/17-A. Failed deadline pursuant to Rule 61(a)(2). Last location was Com. on JUD.

Summary: Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, imposes liability for hazardous substance removal or remedial actions. Existing law provides that a cost incurred by the DTSC or regional board in carrying out or overseeing a response or a corrective action under the act or under the hazardous waste control laws is recoverable pursuant to state or federal law by the Attorney General, upon the request of the department or regional board, from the liable person or persons. The act defines "responsible party" and "liable person" for its purposes to mean those persons described in a specified provision of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which includes persons who are, in specified ways, responsible for the disposal of hazardous substances. This bill would require that, for purposes of that definition, for a cause of action that accrued on or after January 1, 1982, "disposal," as it is used in that federal provision, includes emissions into the air.

AB 483 (Bocanegra) Airports: pollution

Introduced: 2/13/17

Last amend: 4/18/17

Status: 5/1/17-A. Failed deadline pursuant to Rule 61(a)(2). Last location was Com. on E.S. & T.M.

Summary: This bill would require DTSC and the State Air Resources Board to conduct or require to be conducted specified tests of the soil and air quality at general aviation noncommercial airports that meet specified criteria. The bill would require the state board to coordinate the air quality testing with air districts. The bill would require the department, no later than July 1, 2019, to submit a specified report to the Legislature and post that report on its Internet *Website*. The bill would require the state board and the appropriate air district to compile and post a specified annual report on their Internet Web sites.

AB 816 (Kiley) California Environmental Protection Agency: Natural Resources Agency: Web casts of public meetings and workshops

Introduced: 2/15/17

Last amend: 2/15/17

Status: 9/1/17-S. In Com. on APPR: Held under submission.

Summary: This bill would require that each department, board, and commission of the Natural Resources Agency, except as specified, and each department, board, and office of the California Environmental Protection Agency Web cast all onsite public meetings, in a manner that enables listeners and viewers to ask questions and provide public comment by telephone or electronic communication commensurate with those attending the meeting. The bill would require the agencies to make the recording of a Web cast available online for no less than 3 years for subsequent viewing by interested members of the public.

AB 958 (Ting and Quirk) Hazardous materials: perfluoroalkyl and polyfluoroalkyl substances

Introduced: 2/16/17

Last amend: 7/17/17

Status: 8/21/17-S. In Com. on APPR: Set, first hearing cancelled at the request of author.

Summary: The bill would require DTSC to include in the 2018–20 Priority Product Work Plan, and subsequent work plans, as necessary, food packaging containing perfluoroalkyl or polyfluoroalkyl substances (PFASs). The bill would require the department, on or before January 1, 2020, to begin the adoption of Green Chemistry regulations for that food packaging, unless the department, on or before January 1, 2019, makes a finding that sufficient data are not available to conduct and complete the priority product evaluation and regulatory process for that food packaging. If the department makes that finding, the bill would require the department to, among other things, pursue the data necessary to conduct and complete that evaluation and regulatory process and to begin the adoption of Green Chemistry regulations for that food packaging within one year of collecting sufficient data to conduct and complete the evaluation and regulatory process.

AB 1179 (Kalra) Hazardous waste facilities: inspections

Introduced: 2/17/17

Last amend: 4/17/17

Status: 9/5/17-S. Read second time. Ordered to third reading.

Summary: Existing law requires the DTSC, and a local health officer or local public officer designated by the Director of Toxic Substances Control, to enforce the standards in the hazardous waste control law and the regulations adopted by the department to implement that law, except as specified. Existing law

authorizes a representative of the department or the local officer or agency authorized to enforce the hazardous waste control law to, among other things, enter and inspect a factory, plant, construction site, disposal site, transfer facility, or an establishment or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources. This bill would require the department to adopt regulations establishing inspection frequencies for permitted hazardous waste treatment, storage, and disposal facilities, hazardous waste generators, and hazardous waste transporters, as specified. The bill would require the inspection frequency for a hazardous waste land disposal facility to be no less than 2 times per calendar year and, for any other permitted hazardous waste treatment, storage, or disposal facility, no less than once per calendar year.

AB 1212 (Dahle) Hazardous materials: chemicals of concern

Introduced: 2/17/17

Last amend: 2/17/17

Status: 5/1/17-A. Failed deadline pursuant to Rule 61(a)(2). Last location was from printer, pending referral.

Summary: Existing law requires the DTSC to adopt, by January 1, 2011, regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern. These regulations are required to establish an identification and prioritization process that includes specified considerations, including the volume of the chemicals in commerce in the state. This bill would make nonsubstantive changes to these provisions.

AB 1316 (Quirk) Public health: childhood lead poisoning: prevention

Introduced: 2/17/17

Last amend: 9/1/17

Status: 9/1/17-S. Read second time and amended. Ordered returned to second reading.

Summary: Existing law, the Childhood Lead Poisoning Prevention Act of 1991, required the State Department of Public Health (formerly the State Department of Health Services) between July 1, 1992, and July 1, 1993, to adopt regulations establishing a standard of care at least as stringent as the most recent United States Centers for Disease Control and Prevention screening guidelines, whereby all children are evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. The standard of care, among others, is required to provide that, upon evaluation, those children determined to be at risk for lead poisoning, according to the regulations, are required to be screened. Existing law defines "lead poisoning" to mean the disease present when the concentration of lead in whole venous blood reaches or exceeds levels constituting a health risk, as specified in the most recent United States Centers for Disease Control and Prevention guidelines for lead poisoning as determined by the department, or when the concentration of lead in whole venous blood reaches or exceeds levels constituting a health risk as determined by the department, as specified. Existing law creates the Childhood Lead Poisoning Prevention Fund consisting of fees imposed on manufacturers and other persons formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead that have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination. The moneys in the fund are required to be expended, upon appropriation by the Legislature, for the purposes of the act. This bill, among other things, would change the definition of "lead poisoning" to include concentrations of lead in arterial or cord blood. The bill would require that the regulations establishing a standard of care include the determination of risk factors for whether a child is at risk for lead poisoning and would require the department, when determining those risk factors, to consider the most significant environmental risk factors, as specified. The bill would require that the regulations be

developed by July 1, 2019, in consultation with medical experts, environmental experts, appropriate professional organizations, the public, and others, as determined by the department. The bill would also clarify that the lead screening would not be paid for by funds from the Childhood Lead Poisoning Prevention Fund. This bill would further require the department, by March 1, 2019, and by every March 1 thereafter, to prepare and prominently post on its Internet Web site information that, among other things, evaluates the department's progress in identifying children with high blood lead levels and reducing the incidence of excessive childhood lead exposure in this state, as provided. The bill would require the department to use an electronic database, as provided, to support electronic laboratory reporting of blood lead tests, management of lead-exposed children, and assessment of sources of lead exposure. ... Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health insurers issuing group disability insurance that covers hospital, medical, or surgical expenses to provide benefits for comprehensive preventative care for children 18 years of age and younger under the terms and conditions agreed upon by the group policyholder and the insurer. Existing law requires those benefits to include periodic health evaluations, immunizations, and laboratory services in connection with those periodic health evaluations. This bill, among other things, would add screening for blood lead levels in children who are at risk for lead poisoning to those required benefits, as specified.

AB 1439 (Committee on Environmental Safety and Toxic Materials) Hazardous materials: reporting

Introduced: 2/17/17

Last amend: 3/22/17

Status: 9/7/17-Enrolled and presented to the Governor at 3 p.m.

Summary: Existing law requires DTSC to implement a procedure for the electronic reporting of all hazardous waste facilities permit modifications, to the extent the Secretary for Environmental Protection determines that the procedure is compatible with the electronic reporting standards adopted by the secretary. This bill would repeal this provision. Existing law authorizes the department to require a person submitting a report or data to submit the report or data in an electronic format. This bill would additionally authorize the department to require a person submitting a workplan, schedule, notice, request, application, or other document for purposes of compliance with certain laws and regulations to submit the document in an electronic format.

AB 1441 (Committee on Environmental Safety and Toxic Materials) Hazardous waste: transportation: manifests

Introduced: 2/17/17

Last amend: 6/15/17

Status: 9/5/17-S. Read second time. Ordered to third reading.

Summary: (1) Existing law, which is part of the hazardous waste control law, imposes various manifest requirements for transporting hazardous waste, including, among others, requiring any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and be subject to transporter registration requirements. A violation of the hazardous waste control law is a crime. This bill would authorize specified manifest requirements for transporting hazardous waste, including requirements to give, provide, send, forward, or return to another person a copy of a manifest, to sign a manifest or manifest certification by hand, or to keep or retain a copy of a manifest, to be satisfied through the use of the United States Environmental Protection Agency electronic manifest (e-Manifest) system, once it comes online. (2) Existing law authorizes certain requirements to submit a hazardous waste transportation manifest to be satisfied by instead submitting an electronic report to the DTSC. This bill would repeal the authorization to submit electronic reports on and after the date the United

States Environmental Protection Agency electronic manifest (e-Manifest) system comes online. (3) Existing law requires a person who submits to the DTSC an incomplete or improperly completed hazardous waste transportation manifest to resubmit the manifest accompanied by a fee of \$20. This bill would, on and after the date the United States Environmental Protection Agency electronic manifest (e-Manifest) system comes online, require a person who enters incomplete or erroneous information into the e-Manifest system to, upon notification, correct the information in the e-Manifest system and submit a fee of \$20 to the department. (4) Existing law requires the DTSC to annually expend \$1,050,000, upon appropriation by the Legislature, from the hazardous waste transportation manifest fees deposited in the Hazardous Waste Control Account to implement pollution prevention measures. This bill would repeal that requirement. (5) This bill would make other changes related to hazardous waste transportation manifest laws and would delete obsolete provisions.

AB 1516 (Cunningham) Maintenance of the codes

Introduced: 2/17/17

Last amend: 8/23/17

Status: 6/8/17-A. Concurrence in Senate amendments pending. May be considered on or after September 2 pursuant to Assembly Rule 77.

Summary: Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes. This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature, including changes to DTSC website posting requirements made in Chapter 10 of the Statutes of 2016.

AB 1649 (Muratsuchi) Oil refineries: public safety

Introduced: 2/17/17

Last amend: 9/6/17

Status: 9/1/17-A. Concurrence in Senate amendments pending. May be considered on or after September 8 pursuant to Assembly Rule 77.

Summary: Existing law establishes the California Environmental Protection Agency under the supervision of the Secretary for Environmental Protection, consisting of various boards, offices, and departments, and vests the agency with authority over various environmental matters. This bill would provide for the California Environmental Protection Agency, in consultation with specified federal, state, and local agencies, including DTSC, to examine ways to improve public and worker safety through enhanced oversight of refineries and to strengthen emergency preparedness in anticipation of any future refinery incident. The bill would require the California Environmental Protection Agency, in consultation with those agencies, to facilitate coordination among those agencies to protect the public, fence line communities, and refinery workers from risks associated with refinery operations throughout the state. The bill would require the California Environmental Protection Agency to hold at least 2 public meetings a year, as specified, to provide members of the public with current information on refinery safety and to receive information from the public regarding health and safety concerns associated with refinery operations.

SB 258 (Lara) Cleaning Product Right to Know Act of 2017

Introduced: 2/8/17

Last amend: 8/23/17

Status: 8/31/17-A. Read second time. Ordered to third reading.

Summary: Existing law regulates the existence of, and disclosure of, specified chemicals and components in consumer products, including phthalates and bisphenol A. This bill would require a manufacturer of a designated product, as defined, that is sold in the state to disclose on the product

label and on the product's Internet Web site information related to chemicals contained in the designated product, as specified. The bill would authorize a manufacturer to protect certain chemicals from disclosure by use of a generic name, as specified. The bill would prohibit the sale in the state of a designated product that does not satisfy these requirements. Existing law, the Hazardous Substances Information and Training Act, ensures the transmission of necessary information to employees regarding the properties and potential hazards of hazardous substances in the workplace. A serious and knowing or negligent violation of the act by an employer and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or of any other employee is a crime. Existing law requires the Occupational Safety and Health Standards Board to adopt a standard setting forth an employer's duties toward its employees consistent with specified guidelines, including, among other things, that the employer shall make safety data sheets on substances in the workplace available to employees, collective bargaining representatives, or employee physicians. This bill would require an employer that is required to make a safety data sheet readily accessible to an employee pursuant to that standard to make readily accessible in the same manner, for designated products in the workplace, certain information included in the online disclosures described above relating to chemicals contained in those products. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program. The bill would provide that its provisions are severable. The bill states that it should not be construed to restrict the authority of DTSC to take action on any cleaning product pursuant to its authority and consistent with this act.

SB 774 (Leyva) Hazardous substances: California Toxic Substances Board

Introduced: 2/17/17

Last amend: 7/13/17

Status: 9/5/17-A. Read second time. Ordered to third reading.

Summary: This bill would establish the California Toxic Substances Board in the DTSC. Notwithstanding any other law, it would require the board to appoint the Director of Toxic Substances Control, who would hold office at the pleasure of the board. The bill would provide for the membership of the board, the salary and terms of the board members, and other various powers and duties of the board. The bill would require the board to conduct monthly public hearings to consider matters before the board relating to hazardous waste facilities permits and sites. The bill would require the department to provide information and records, and testify, concerning the agenda items at the hearing. The bill would authorize the board, based on the documents submitted, information presented, and testimony taken at the hearing, to direct the department to take certain actions with regard to a hazardous waste facilities permit or site, and would require the department to comply with those directions.