

Legislative Mandates 2018

*A compilation of new mandates and statutory
changes affecting DTSC programs*



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**Department of Toxic Substances Control
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INTRODUCTION

This publication serves to inform Department of Toxic Substances Control (DTSC) staff of new legislatively mandated activities and important statutory changes resulting from legislation enacted in the second half of the 2017–2018 Legislative Session.

Some of the described changes are provided for information only, such as noting new or revised requirements or procedures that affect applied standards or the way DTSC operates. Other changes describe more direct requirements, such as mandates upon DTSC to develop regulations, prepare a report, establish a new program, or modify an existing program.

The descriptions provided in this publication are not binding. Staff should consult the actual bill language (which can be accessed through the Internet links provided) for exact changes to the statutes.

Bills with an urgency clause take effect on the date they are chaptered; bills without an urgency clause take effect on January 1, 2019. Bills may also specify that their provisions take effect at a later date or designate a specific date by which an activity must be completed.

Questions about specific implementation plans and activities should be referred to the affected programs identified in this publication. Questions regarding the information in this publication can be referred to any of the legislative staff in DTSC's Office of Legislation and Regulatory Review (see below). Suggestions for ways to improve this publication are also welcome.

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INDEX OF BILLS AFFECTING DTSC PROGRAMS BY BILL NUMBER

Bill No.	Author	Description	Chapter Number	Affected Program(s)
AB 2832	Dahle	Recycling: lithium-ion vehicle batteries: advisory group	822	HWMP
AB 2928	Chen	Hazardous waste: used oil	440	HWMP, CUPA
AB 2998	Bloom	Consumer products: flame retardant materials	924	SCP&W, ECL
SB 212	Jackson	Solid waste: pharmaceutical and sharps waste stewardship.	1004	HWMP

List of Acronyms and Abbreviations

CalRecycle Department of Resources Recycling and Recovery
CUPA Certified Unified Program Agency
ECL Environmental Chemistry Lab
HWMP Hazardous Waste Management Program
SCP&W Safer Consumer Products and Workplaces Program

SUMMARIES OF BILLS AFFECTING DTSC





AB 2832 (Dahle) Chapter 822, Statutes of 2018 – Recycling: lithium-ion vehicle batteries: advisory group.

AFFECTED PROGRAM(S): **HWMP**

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| <input type="checkbox"/> New Program or Requirements | <input checked="" type="checkbox"/> Additional Requirements for an Existing Program |
| <input type="checkbox"/> Information Only | <input checked="" type="checkbox"/> Report to the Governor/Legislature |

Link to Legislation:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2832

Summary:

Assembly Bill 2832 requires the Secretary for Environmental Protection (Secretary) to appoint and convene the Lithium-Ion Car Battery Recycling Advisory Group (Advisory Group) to review, and advise the Legislature on, policies regarding the recovery and recycling of lithium-ion vehicle batteries sold with motor vehicles in the state.

Specifically, this bill:

- Requires the Secretary to appoint members to the Advisory Group from each of the following:
 - DTSC
 - CalRecycle
 - A vehicle manufacturer or an organization that represents one or more vehicle manufacturers
 - An electronic waste recycler or an organization that represents one or more electronic waste recyclers
 - An automotive repair dealer or an organization that represents one or more automotive repair dealers
 - An automobile dismantler or an organization that represents one or more automobile dismantlers
 - An environmental organization that specializes in waste reduction and recycling
 - A representative of the energy storage industry
 - A lithium-ion vehicle battery manufacturer
 - A standards-developing organization that has a focus on automotive engineering
- Requires the Secretary, on or before April 1, 2019, to convene the Advisory Group.
- Until April 1, 2020, requires the Advisory Group to meet at least quarterly and consult with universities and research institutions that have conducted research in battery recycling, with manufacturers of electric and hybrid vehicles, and with the recycling industry.
- Requires the Advisory Group, on or before April 1, 2020, to submit policy recommendations to the Legislature aimed at ensuring that as close to 100% as possible of

end-of-life lithium-ion vehicle batteries are reused or recycled in a safe and cost-effective manner. These policy recommendations are required to include:

- Entire life cycle considerations for lithium-ion vehicle batteries;
- Best management considerations for those batteries at end-of-life; and
- The overall effect of different management practices on the environment.

In developing the policy recommendations, the Advisory Group is also to consider both in-state and out-of-state options for the recycling of lithium-ion vehicle batteries.

- Repeals its provisions as of January 1, 2022.

Departmental Mandate(s):

- DTSC is to provide a representative to participate in the activities of the Advisory Group.



AB 2928 (Chen) Chapter 440, Statutes of 2018 – Hazardous waste: used oil.

AFFECTED PROGRAM(S): **HWMP, CUPA**

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2928

Summary:

Assembly Bill 2928 provides that the testing of used oil from a generator of highly controlled used oil is required only once per year to determine if the used oil is exempt from hazardous waste regulation.

Specifically, this bill:

- Defines “generator of highly controlled used oil.”
- Allows a generator of highly controlled used oil to test their used oil only once per year to determine whether the used oil meets the conditions to be exempt from regulation.
- Authorizes a generator of highly controlled used oil to use the results of that test and any prior tests of the same kind to certify that the used oil is exempt from regulation.
- Requires a generator of highly controlled used oil to include a signed certification statement with each shipment of used oil that the generator meets the conditions to be considered a generator of highly controlled used oil.
- Requires the generator to maintain records of the tests on which each certification is based, and requires that those records be available for audit and verification by DTSC, the CUPA, or CalRecycle.

Departmental Mandate(s):

- None.



AB 2998 (Bloom) Chapter 924, Statutes of 2018 – Consumer products: flame retardant materials.

AFFECTED PROGRAM(S): SCP&W, ECL

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB2998

Summary:

Assembly Bill 2998 prohibits the sale of new juvenile products, mattresses or upholstered furniture that contain specific flame retardant chemicals beginning January 1, 2020. The bill also requires the Department of Consumer Affairs' Bureau of Electronics and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) to enforce its requirements, and to monitor for compliance by sending samples to the Department of Toxic Substances Control for analysis.

Specifically, this bill:

- Bans the sale of juvenile products, mattresses, reupholstered furniture, and upholstered furniture containing more than 1,000 parts per million of a covered flame retardant chemical after January 1, 2020.
- Requires the International Sleep Products Association (Association) to conduct surveys of mattress producers, including those registered with the Bureau, and to submit a survey report with prescribed information to the Bureau by January 1, 2020, and every three years thereafter.
- Requires registered producers of new mattresses to respond to the survey and requires the Association to submit to the Bureau a list of providers who fail to respond to the survey.
- Prohibits custom upholsterers from repairing, reupholstering, recovering, restoring, or renewing upholstered furniture using components that contain covered flame retardant chemicals above the specified levels.
- Establishes penalties from \$1,000 for a first violation and up to \$10,000 for a fourth or subsequent violation.
- Provides an exemption for: electronic components of juvenile products, mattresses, reupholstered furniture, or any associated casing for those electronic products; thread or fiber when used for stitching mattress components together; components of adult mattresses other than foam.
- Requires the Bureau to enforce these restrictions.
- Requires the Bureau to provide DTSC with a selection of samples from products regulated under this bill to test for compliance with the prohibitions specified.

- Requires the Bureau to select samples based on consultation with DTSC, taking into account a range of manufacturers and types of products.
- States that if DTSC's testing shows that any of the tested products are in violation, the Bureau may assess fines.
- Requires the Bureau to reimburse DTSC for testing costs.

Departmental Mandate(s):

- DTSC is to consult with the Bureau to select samples to analyze for compliance with the flame retardant chemical limits.
- DTSC is to analyze the samples provided by the Bureau for flame retardant chemicals, and the Bureau is to reimburse DTSC for its costs in analyzing the samples.



SB 212 (Jackson) Chapter 1004, Statutes of 2018 – Solid waste: pharmaceutical and sharps waste stewardship.

AFFECTED PROGRAM(S): **HWMP**



New Program or Requirements



Additional Requirements for an Existing Program



Information Only



Report to the Governor/Legislature

Link to Legislation:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB212

Summary:

Senate Bill 212 establishes a stewardship program, and requires a manufacturer or distributor of covered drugs or sharps to individually, or as part of a group, to establish and implement a stewardship program for drugs and sharps for the collection and proper disposal of home-generated drugs and sharps wastes. Requires CalRecycle and the California Board of Pharmacy to oversee the stewardship program.

Specifically, this bill:

- Defines the terms it uses, including the products (and wastes) that would be covered and subject to the program.
- Describes the obligations of manufacturers and distributors of covered drugs or sharps, including identifying their products.
- Describes the required content of a stewardship program plan.
- Describes CalRecycle’s and the California State Board of Pharmacy’s responsibilities in implementing and enforcing the program.
- Requires the operator of a drugs and sharps stewardship program, prior to submitting its completed stewardship program to CalRecycle, to submit its proposed stewardship plan to the California State Board of Pharmacy, and to any other applicable state agencies with areas of authority relative to the stewardship plan.
- Requires any agency that receives a proposed stewardship plan, within 90 days of receipt, to determine whether the proposed stewardship plan complies with state and federal laws that are related to that agency’s authority. If the agency determines the plan does not comply, the agency is to provide an explanation of any finding of noncompliance.
- Requires the program operator to pay an administrative fee to CalRecycle to cover their costs and any other state agency’s administration and enforcement costs. Reimbursable costs include state agencies’ costs to review proposed stewardship plans.

Departmental Mandate(s):

- Although this bill largely impacts CalRecycle, and establishes a new program they would oversee, because the stewardship program(s) would continue to be required to comply with state and federal hazardous waste laws and regulations, there are provisions of this bill that would impact DTSC:
 - As with any other state agency, DTSC would be required to review any stewardship plans submitted to it to determine whether it would be compliant with state and federal hazardous waste laws and regulations.
- In addition, there are provisions of this bill that would be related to both DTSC and CUPA inspection programs:
 - Collection sites operating under a stewardship program may be inspected by DTSC or CUPAs for compliance with state and federal hazardous waste laws and regulations.