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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2021 - 2022 Regular**

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**Bill No:** AB 732

**Author:** Quirk

**Version:** 05/11/2022

**Hearing Date:** 6/1/2022

**Urgency:** No

**Fiscal:** No

**Consultant:** Gabrielle Meindl

**SUBJECT:** Hazardous waste: transportation: registration

**DIGEST:** Makes changes to the Mercury Thermostat Collection Act of 2021, deletes obsolete provisions related to registered hazardous waste transporters, and makes additional technical and conforming changes.

**ANALYSIS:**

Existing law:

- 1) Establishes the national hazardous waste management program under Subtitle C of the Resources Conservation and Recovery Act (RCRA). (42 United States Code § 6901 et seq.)
- 2) Creates the Hazardous Waste Control Law (HWCL), which authorizes the Department of Toxic Substances Control (DTSC) to regulate the management of hazardous wastes in California. (Health and Safety Code § 25100 et. seq.)
- 3) As part of the Mercury Thermostat Collection Act (Act) of 2021:
  - a) Requires, until January 1, 2030, each manufacturer of mercury-added thermostats, or group of manufacturers, on or before March 1, 2022, to contract with or retain a qualified third party to develop and implement a convenient, cost effective, and efficient program for the collection, transportation, recycling, and disposal of out-of-service mercury-added thermostats.
  - b) Requires, on or before June 1, 2022, the qualified third party, as defined, to provide to DTSC for review and approval the plan to carry out the program.
  - c) Requires each manufacturer, or group of manufacturers, on or before March 30, 2022, and on or before March 30 of each year thereafter until March 30, 2028, to pay to DTSC an aggregate total of \$400,000, as

provided, which shall not exceed the department's actual and reasonable regulatory costs to administer, implement, and enforce the act.

- d) Subjects the thermostats of a manufacturer that fails to have a plan submitted by the qualified third party approved by the department, or fails to make a payment required pursuant to the act, to a sales ban, as provided.
- e) Requires DTSC to determine whether a manufacturer, or group of manufacturers, has made a good faith effort, as defined, to comply with the Act.
- f) Requires each manufacturer, or group of manufacturers, on and after July 1, 2022, to provide collection bins for out-of-service mercury-added thermostats to, among other persons, a wholesaler in the state that sells thermostats and requests a collection bin. (Health and Safety Code § 25214.8.10 et. seq.)

This bill:

- 1) Deletes the requirement that DTSC determine whether a manufacturer, or group of manufacturers, has made a good faith effort to comply with the Act.
- 2) Requires each manufacturer, or group of manufacturers, to automatically provide collection bins for out-of-service mercury-added thermostats to a thermostat wholesaler in the state by eliminating the requirement that the wholesaler request a collection bin.
- 3) Makes other technical and nonsubstantive changes to the Act.
- 4) Deletes obsolete provisions related to registered hazardous waste transporters and makes additional technical and conforming changes.

## **Background**

- 1) *Federal hazardous waste regulation.* RCRA established three programs: hazardous waste management (RCRA Subtitle C), solid waste management (RCRA Subtitle D), and the underground storage tank program (RCRA Subtitle I). RCRA provides "cradle-to-grave" control of solid and hazardous waste by establishing management requirements for generators and transporters of hazardous waste treatment, storage, and disposal facilities. Most states have been authorized to implement some or all of the RCRA Subtitle C program.

State RCRA programs must be at least as stringent as the federal program, but states also can adopt more stringent requirements.

- 2) *California Hazardous Waste Control Law*. The HWCL is the state's program that implements and enforces federal hazardous waste law in California. The HWCL covers the entire management of hazardous waste, from the point that the hazardous waste is generated, to management, transportation, and ultimately disposal into a state or federal authorized facility. Statute directs DTSC to oversee and implement the state's HWCL. Any person who stores, treats, or disposes of hazardous waste must obtain a permit from DTSC. DTSC's hazardous waste regulatory program is supported by fees on those that generate and manage hazardous waste in California.

AB 732 makes a technical change to the Health and Safety Code to simply eliminate an outdated and inaccurate code reference and makes other conforming changes.

- 3) *Mercury Thermostat Collection Act*. In 2006, thermostats containing a mercury switch were banned in California because of the toxicity of mercury and the development of alternative thermostat technologies. In 2008, the Legislature enacted California's Mercury Thermostat Collection Act of 2008 (AB 2347 Ruskin, Chapter 572, Statutes of 2008) to require manufacturers to establish a collection and recycling program for out-of-service mercury-added thermostats. To address the under performance of the program, in 2021, AB 707 (Quirk, Chapter 703, Statutes of 2021) made significant updates to the program for mercury thermostat collection to, including:
  - a) Requiring thermostat manufacturers to fully fund DTSC's regulatory costs;
  - b) Requiring thermostat manufacturers to fully fund all program costs to collect, transport, and recycle mercury thermostats;
  - c) Requiring thermostat manufacturers to provide no less than \$9.1 million over the seven-year program for a robust education and outreach campaign;
  - d) Requiring thermostat manufacturers to contract with a qualified third party that meets specified criteria to implement the program statewide;
  - e) Requiring DTSC to review and approve the plan for the program;
  - f) Requiring the provision of \$30 incentives to consumers to turn in mercury thermostats for recycling;
  - g) Requiring collection locations to be convenient and accessible statewide, including in rural, disadvantaged, and low-income communities; and,
  - h) Requiring DTSC to report to the Legislature on the efficacy of the program before it sunsets in 2029.

AB 732 deletes the requirement that DTSC determine whether a manufacturer, or group of manufactures has made a good faith effort to comply with the Act, but would continue to subject the thermostats of a manufacturer that fails to obtain DTSC approval of the plan or make required payment to a sales ban. The bill also requires manufactures to automatically provide collection bins for out-of-service mercury-added thermostats to a thermostat wholesaler in the state rather than requiring that the wholesaler request a collection bin.

### Comments

- 1) *Purpose of Bill.* According to the author, "AB 698 (ESTM Committee, Chapter 153, Statutes of 2021) made numerous technical changes to the health and safety code to conform to changes made by federal law and regulation. Near the end of the legislation session, an additional technical change was discovered however it was too late in the process to amend AB 698 any further. Additionally, after the passage of AB 707 (Quirk, Chapter 703, Statutes of 2021) Mercury Thermostat Collection Act of 2021, stakeholders discovered several technical issues that needed to be addressed. AB 732 makes technical changes to the HWCL to address the issues found from recent legislation."

### Related/Prior Legislation

AB 698 (ESTM, Chapter 153, Statues of 2021). Updates terms within the state Hazardous Waste Control Law (HWCL) to conform to recent changes in federal hazardous waste regulation promulgated by the United States Environmental Protection Agency (US EPA) under their Generator Improvement Rule (GIR).

AB 3261 (ESTM, 2020). Updates terms within the state HWCL to conform to recent changes in federal hazardous waste regulation promulgated by the US EPA under their GIR. This bill was held in the Senate Environmental Quality Committee.

AB 1597 (ESTM, Chapter 133, Statutes of 2019). Authorizes the state's hazardous waste management manifest requirements to be satisfied through the use of the US EPA electronic manifest system.

**SOURCE:** Author

**SUPPORT:**

None received

**OPPOSITION:**

None received

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