



BACKGROUND

California has over 100,000 generators of hazardous waste, including many businesses and retailers. In California, a hazardous waste is any waste on a federally maintained list of hazardous wastes, that is derived from these wastes, or that is ignitable, corrosive, reactive, or toxic. Manufacturing byproducts, discarded used materials, or discarded unused commercial products are all common hazardous wastes. Waste generators like businesses are responsible for separating hazardous from nonhazardous waste and disposing of it in a manner that protects public health and the environment.

Before treating a waste as nonhazardous, waste generators are responsible for determining if the waste is toxic. For several types of toxicity, the waste generator can use animal testing or a calculation based on existing data to determine if the waste is toxic. However, in order to determine if a waste is acutely toxic to aquatic life, the waste must be tested on live vertebrate fish using the Aquatic Toxicity Test. The current aquatic toxicity test measures the lethal dose of a waste to fish. At the end of the test, the surviving fish are euthanized.

The Aquatic Toxicity Test poses a challenge for businesses that wish to sell cruelty-free products. Waste generators are exposed to liability if they treat waste as nonhazardous without first performing the aquatic toxicity test. So, to avoid animal testing, these companies manage their waste as hazardous.

The Aquatic Toxicity Test was developed 40 years ago and has not been refined since. Other, more robust and refined methods have since been approved by US EPA, the Organization for Economic Cooperation and Development (OECD), and the European Chemicals Agency (ECHA). Additionally, the European Union and other states like Washington allow calculation-based methods for determining aquatic toxicity, which leverage existing data and minimize animal testing and cost.

EXISTING LAW

SB 423 (Bates, Chapter 771, Statutes of 2016), required DTSC to convene a Retail Waste Workgroup tasked with identifying regulatory and policy directives that need clarification for managing consumer products.

PROBLEM

Companies that want to avoid animal testing and others choose to manage all their waste as hazardous, rather than testing it with the Aquatic Toxicity Test. According to the regulated community, this includes nearly all personal care products.

This may lead to an over-classification of hazardous waste. However, some companies contend that their waste is not hazardous waste because, if tested, it would pass the Aquatic Toxicity Test. This is costly to businesses and increases the burden on primarily low-income communities of color, already overburdened with pollution, in which hazardous waste facilities are often located.

SOLUTION

AB 1793 requires DTSC to evaluate, contingent upon funding, the acute aquatic toxicity criterion and whether there are alternative methods for the Aquatic Toxicity Test. An alternative method would modernize California’s hazardous waste characterization. This would enable companies to determine acute aquatic toxicity without testing on live fish, and therefore lead to more efficient, cost-effective, and more humane waste determinations.

SUPPORT

- National Stewardship Action Council (Sponsor)
- Cruelty Free International North America
- Environmental Working Group
- Personal Care Products Council
- Physicians Committee for Responsible Medicine
- Save the Albatross Coalition
- Save Our Shores
- Social Compassion in Legislation

FOR MORE INFORMATION

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