

Introduced by Senator Archuleta**(Coauthors: Senators Dodd and Hertzberg)**

(Coauthors: Assembly Members Arambula, Bauer-Kahan, Flora, and
Cristina Garcia)

January 21, 2021

An act to add Chapter 7.9 (commencing with Section 42435) to Part 3 of Division 30 of the Public Resources Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as introduced, Archuleta. Lithium-ion batteries: illegal disposal: fire prevention.

The Rechargeable Battery Recycling Act of 2006 requires every retailer, as defined, to have in place a system for the acceptance and collection of used rechargeable batteries, defined to include lithium-ion batteries, for reuse, recycling, or proper disposal. The act requires the system for the acceptance and collection of used rechargeable batteries to include, at a minimum, specified elements, including, among others, the take-back of a used rechargeable battery at no cost to the consumer.

The hazardous waste control laws, among other things, authorize the Department of Toxic Substances Control to regulate the generation and disposal of hazardous waste. Existing law prohibits a person from intentionally disposing of or causing the disposal of a hazardous or extremely hazardous waste at a point not authorized by the hazardous waste control laws, as provided. Under existing department-adopted regulations, specified hazardous wastes, including certain batteries, are designated as "universal waste" and are regulated separately pursuant to universal waste management provisions. A violation of the hazardous

waste control laws, including a regulation adopted pursuant to those laws, is a crime.

This bill would prohibit a person from knowingly disposing of a lithium-ion battery in a container or receptacle that is intended for the collection of solid waste or recyclable materials, unless the container or receptacle is designated for the collection of batteries for recycling, as provided.

The bill would require the Department of Resources Recycling and Recovery, on or before July 1, 2024, and in consultation with the Department of Toxic Substances Control, to develop a guidance document relating to the proper handling and disposal of lithium-ion batteries and products that contain lithium-ion batteries, as provided. The bill would authorize the Department of Resources Recycling and Recovery, in carrying out that requirement, to solicit and use any expertise available in other state agencies and would authorize the department to convene a specified working group to advise on the content, development, and promotion of the guidance document.

The bill would require the Department of Forestry and Fire Protection, before January 1, 2023, in consultation with relevant state agencies and stakeholders, to develop a model protocol and training that identifies best practices for the detection, safe handling, and suppression of fires that originate from discarded lithium-ion batteries or products that contain lithium-ion batteries on or in solid waste or recycling collection vehicles, transfer or processing stations, or disposal facilities, as provided. The bill would require a solid waste enterprise, as defined, before July 1, 2023, after consulting with the county fire marshal of every county in which the solid waste enterprise conducts solid waste collection operations, to adopt, or update if necessary, a protocol and arrange any necessary training for relevant employees that identifies procedures to follow under those same circumstances. By imposing new duties on county fire marshals, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Many types of batteries, including common rechargeable
4 and single-use batteries, exhibit hazardous characteristics and are
5 considered hazardous waste when they are discarded. Currently,
6 batteries are prohibited from being disposed of in trash or
7 household recycling collection bins intended to receive other
8 nonhazardous waste or recyclable materials. Despite this
9 prohibition, many batteries are improperly disposed of in this way.

10 (2) While the Rechargeable Battery Recycling Act of 2006 has
11 resulted in the recovery of millions of rechargeable batteries, the
12 act does not apply to the sale of rechargeable batteries that are
13 contained in or packaged with a battery-operated device. Too often,
14 these battery-operated devices are disposed of along with ordinary
15 household waste.

16 (3) Lithium-ion batteries are often found in consumer
17 electronics, including notebook computers, tablets, and cellular
18 telephones. Because lithium-ion batteries offer advantages in
19 performance over traditional alkaline and lead-acid batteries, they
20 are the fastest growing type of rechargeable battery. As the use of
21 consumer electronics increases, the use of lithium-ion batteries
22 also increases. A major downside to the lithium-ion battery is
23 safety, particularly the risk of fire that can result from overcharge,
24 internal short circuit, or other factors, including their high energy
25 density and use of a flammable organic electrolyte.

26 (4) Most waste collection services are now automated, which
27 has led to greater collection efficiencies and improved worker
28 safety. Waste collection vehicles use hydraulic pressure to compact
29 the load and evenly distribute weight. A balanced load contributes
30 to the safe operation and handling of the vehicle. However,
31 automation and load consolidation afford little opportunity to
32 identify or detect the presence of prohibited materials, such as
33 small batteries and battery-operated devices, in carts that are set
34 out for collection.

1 (5) Waste collection and recycling vehicle fleet operators report
2 dramatic increases in payload fires over the past few years,
3 corresponding to the increased presence of lithium-ion batteries
4 and battery-operated devices that have been illegally discarded
5 into the waste stream. Transfer stations and recycling facilities
6 also report a significant increase in the incidence of fires.
7 Improperly disposed of lithium-ion batteries and battery-operated
8 devices are believed to be a major cause of those vehicle and
9 facility fires. These fires are particularly difficult to detect and
10 extinguish when they originate deep within a compacted load.

11 (6) Waste and recycling collection vehicle, transfer station, and
12 recycling facility fires attributed to illegally disposed of batteries
13 are estimated to have resulted in property losses of several millions
14 of dollars. They also disrupt the conduct of waste recycling
15 activities, which represent an essential public service that provides
16 a broad array of environmental and emissions reduction benefits.
17 Seasonal drought conditions can exacerbate the risk of wildfire
18 resulting from even a single vehicle or facility fire.

19 (7) More must be done to better educate the public about, and
20 bring awareness to, the risks presented by the illegal disposal of
21 lithium-ion batteries and products that contain lithium-ion batteries
22 and to discourage that behavior.

23 (b) It is therefore the intent of the Legislature to address the
24 issue of illegally discarded lithium-ion batteries and products that
25 contain lithium-ion batteries.

26 SEC. 2. Chapter 7.9 (commencing with Section 42435) is added
27 to Part 3 of Division 30 of the Public Resources Code, to read:

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CHAPTER 7.9. LITHIUM-ION BATTERIES

31 42435. (a) Before January 1, 2023, the Department of Forestry
32 and Fire Protection, in consultation with relevant state agencies
33 and stakeholders, including, but not limited to, the Department of
34 Toxic Substances Control, the Department of the California
35 Highway Patrol, and representatives from the solid waste industry,
36 including local governments that also operate solid waste or
37 recycling collection fleets or that own or operate a transfer or
38 processing station or disposal facility, shall, using existing
39 resources, develop a model protocol and training that identifies
40 best practices for the detection, safe handling, and suppression of

1 fires that originate from discarded lithium-ion batteries or products
2 that contain lithium-ion batteries on or in solid waste or recycling
3 collection vehicles, transfer or processing stations, or disposal
4 facilities. The Department of Forestry and Fire Protection shall
5 post the model protocol on its internet website.

6 (b) Before July 1, 2023, a solid waste enterprise shall, after
7 consulting with the county fire marshal of every county in which
8 the solid waste enterprise conducts solid waste collection
9 operations, adopt, or update if necessary, a protocol and arrange
10 any necessary training for relevant employees that identifies
11 procedures to follow for the detection, safe handling, and
12 suppression of fires that originate from discarded lithium-ion
13 batteries or products that contain lithium-ion batteries on or in
14 solid waste or recycling collection vehicles, transfer or processing
15 stations, or disposal facilities.

16 42435.5. (a) On or before July 1, 2024, the department, in
17 consultation with the Department of Toxic Substances Control,
18 shall develop a guidance document for use by local governments
19 to better inform, educate, and increase public awareness as to the
20 proper handling of, and the risk of fire due to the mishandling or
21 improper disposal of, lithium-ion batteries and products that contain
22 lithium-ion batteries, and to reduce the likelihood of illegal
23 disposal. In carrying out this section, the department may solicit
24 and use any expertise available in other state agencies.

25 (b) For purposes of this section, the department may prepare,
26 publish on the department's internet website, or issue any materials
27 that the department determines necessary for disseminating
28 information, including existing or updated guidance developed by
29 the Department of Toxic Substances Control pursuant to the
30 universal waste provisions in Chapter 6.5 (commencing with
31 Section 25100) of Division 20 of the Health and Safety Code, and
32 implementing regulations, or pursuant to the Rechargeable Battery
33 Recycling Act of 2006 (Chapter 8.4 (commencing with Section
34 42451)), or any other relevant guidance.

35 (c) The department may convene a working group composed
36 of representatives from the solid waste industry and local
37 governments to advise the department on the content, development,
38 and promotion of the guidance document specified in subdivision
39 (a).

1 42436. A person shall not knowingly dispose of a lithium-ion
2 battery by depositing it in a container or receptacle that is intended
3 for the collection of solid waste or recyclable materials, unless the
4 container or receptacle is designated for the collection of batteries
5 for recycling pursuant to the universal waste provisions in Chapter
6 6.5 (commencing with Section 25100) of Division 20 of the Health
7 and Safety Code and implementing regulations. Nothing in this
8 section precludes the enforcement of any state law, including
9 Chapter 6.5 (commencing with Section 25100) of Division 20 of
10 the Health and Safety Code, or federal hazardous waste law with
11 respect to waste batteries, including lithium-ion batteries.

12 SEC. 3. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.