

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 8, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and
Neighborhoods Committee

FROM: Sharon M. Tso  Council File No.: 15-0002-S191
Chief Legislative Analyst Assignment No.: 16-06-0549

SUBJECT: Resolution (Koretz – Ryu – Huizar) to Oppose AB 45 (Mullin)

CLA RECOMMENDATION: Adopt Resolution (Koretz – Ryu – Huizar) to include in the City's 2015-16 State Legislative Program OPPOSITION to AB 45 (Mullin), which would require the California Department of Resources Recycling and Recovery to develop one or more model ordinances to allow local governments to implement programs for the collection of hazardous waste without requiring manufacturers and distributors to be responsible for funding the collection of such waste.

SUMMARY

On June 10, 2016, Resolution (Koretz – Ryu - Huizar) was introduced which states that household hazardous waste products pose large health and environmental risks. Household pharmaceuticals and sharps (needles, syringes, and lancets) waste pose especially large dangers, including the risk of infectious disease, poisonings, and substance abuse.

The Legislature is currently considering AB 45 (Mullin) which would require the State to adopt one or more model ordinances for a comprehensive program of household hazardous waste collection. AB 45 would also allow local jurisdictions to adopt one of these model ordinances to establish a collection program for hazardous waste, including pharmaceuticals and sharps, at the local level.

The Resolution states that various local governments within California have adopted producer responsibility programs for unwanted medications and sharps. These programs require manufactures to be responsible for funding the safe collection of these products. The Resolution states that producer responsibility should be a part of the cost of conducting business in order to allow the design of products that can be safely discarded and to ensure that collection costs are not shifted onto local governments. AB 45 would not require manufacturers and distributors to have primary responsibility for funding the collection of waste generated by their products.

The Department on Disability (DOD) advises that AB 45 attempts to develop a one-size-fits-all approach to pharmaceuticals and sharps collection. The DOD also notes that the bill prohibits local governments from enacting ordinances and models to fit their needs, and removes the ability to require manufacturers to fund these costs. According to the DOD, the proposal to allocate \$5 million to a non-profit is vague and would not provide sufficient funding for the syringe collection programs currently funded by the DOD.

The Bureau of Sanitation (Sanitation) currently operates a program that addresses pharmaceuticals and sharps waste collection sites, drop off days, mobile collection, outreach, and education. Sanitation expressed concerns that the education and outreach grants created by AB

45 would shift responsibility for disposal away from producers. Sanitation supports the producer responsibility program operating in Alameda County and other jurisdictions.

Los Angeles County is considering an ordinance that would require manufacturers and producers to develop and fund collection services of sharps and unused pharmaceuticals. In June 2016, the Los Angeles County Board of Supervisors postponed consideration of the ordinance pending the completion of a voluntary pilot program currently being negotiated with the industry.

The Resolution recommends that the City oppose AB 45.

BACKGROUND

Under existing state and federal law, it is illegal to abandon or dispose of household hazardous waste in the trash or down the drain. Existing law also prohibits the disposal of waste in the trash or in recycling containers and requires that all sharps waste be transported to a collection center approved by the local enforcement agency. Several local governments in California have implemented take-back programs for the collection of pharmaceuticals and sharps waste. Alameda County has adopted, and other local governments are considering, Enhanced Producer Responsibility programs that require manufacturers to internalize disposal and environmental costs.

AB 45, introduced on December 1, 2014, would require the California Department of Resources Recycling and Recovery (CalRecycle) to adopt one or more model ordinances for a comprehensive program for the collection of household hazardous waste, and would authorize local jurisdictions to adopt one of these model ordinances. In addition, the bill would require CalRecycle to determine whether a nonprofit organization has been created and funded to make grants totaling \$5 million to local jurisdictions to educate residents about the existence of household hazardous waste disposal programs and how to use them and defray the cost of local government hazardous waste programs. If CalRecycle does not determine that such a nonprofit exists by December 31, 2018, then the bill's provisions would be repealed on January 1, 2019.

AB 45 is opposed by various local governments and other entities within California, including the following: Pasadena, Culver City, West Hollywood, Commerce, Burbank, League of California Cities, and Los Angeles County. The bill is supported by the California Pharmacists Association, California Retailers Association, and the National Association of Drug Chain Stores.

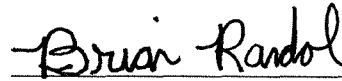
Departments Notified

Bureau of Sanitation

Department on Disability

Bill Status

01/27/16 In Assembly. Read third time. Passed. Ordered to the Senate. (Ayes 50. Noes 18)
01/27/16 In Senate. Read first time. To Committee on Rules for assignment.
02/04/16 Referred to Committee on Environmental Quality
05/16/16 In committee: Set, first hearing. Hearing canceled at the request of author.
06/08/16 In committee: Set, second hearing. Hearing canceled at the request of author.
06/29/16 In committee: Set, final hearing. Hearing canceled at the request of author.



Brian Randol
Analyst

Attachments: 1. Resolution
2. Text of AB 45

RESOLUTION
RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have been first adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, household hazardous waste includes products which pose large health and environmental risks, including automotive byproducts, garden chemicals, consumer electronics, pharmaceuticals, and sharps; and

WHEREAS, household pharmaceutical and sharps waste can pose especially large dangers, including the risk of infectious disease, poisonings, and substance abuse; and

WHEREAS, the Legislature is currently considering AB 45 (Mullin) which would require the California Department of Resources and Recycling to adopt one or more model ordinances for a comprehensive program of household hazardous waste collection; and

WHEREAS, AB 45 would also allow local jurisdictions to adopt one of these model ordinances to establish a collection program for hazardous waste, including pharmaceuticals and sharps, at the local level; and

WHEREAS, various local governments within California have adopted producer responsibility programs for unwanted medications and sharps which require manufacturers to be responsible for funding safe collection of these products; and

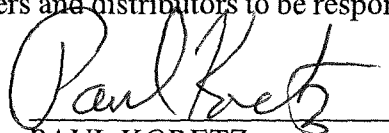
WHEREAS, producer responsibility should be part of the cost of conducting business in order to allow the design of products that can be safely discarded and to ensure that collection costs are not shifted onto local governments; and

WHEREAS, AB 45 would not require manufacturers and distributors to have primary responsibility for funding the collection of waste generated by their products; and

WHEREAS, AB 45 is inconsistent with existing efforts to establish a producer responsibility program in Los Angeles County, which is currently under consideration by the Los Angeles County Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program OPPOSITION to AB 45 (Mullin), which would require the California Department of Resources Recycling and Recovery to develop one or more model ordinances to allow local governments to implement programs for the collection of hazardous waste without requiring manufacturers and distributors to be responsible for funding the collection of such waste.

PRESENTED BY:


PAUL KORETZ

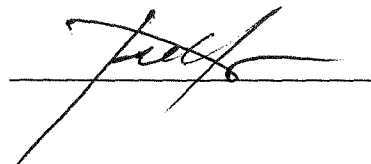
Councilmember, 5th District



DAVID E. RYU

Councilmember, 4th District

SECONDED BY:



JUN 10 2016

AMENDED IN ASSEMBLY JANUARY 21, 2016

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 45

Introduced by Assembly Member Mullin

December 1, 2014

An act to add *and repeal* Article 3.4 (commencing with Section 47120) ~~to~~ of Chapter 1 of Part 7 of Division 30 of the Public Resources Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Mullin. Household hazardous waste.

The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, requires, among other things, each city and each county to prepare a household hazardous waste element containing specified components, and to submit that element to the department for approval. Existing law requires the department to approve the element if the local agency demonstrates that it will comply with specified requirements. A city or county is required to submit an annual report to the department summarizing its progress in reducing solid waste, including an update of the jurisdiction's household hazardous waste element.

~~This bill would require each jurisdiction that provides for the residential collection and disposal of solid waste to increase the collection and diversion of household hazardous waste in its service area, on or before July 1, 2020, by 15% over a baseline amount, to be determined in accordance with department regulations. The bill would authorize the department to adopt a model ordinance for a comprehensive program for the collection of household hazardous waste to facilitate compliance with those provisions, and would require each jurisdiction to annually report to the department on progress achieved in complying with those provisions. By imposing new duties on local agencies, 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 no reimbursement is required by this act for a specified reason.~~

This bill would require the department to adopt one or more model ordinances for a comprehensive program for the collection of household hazardous waste and would authorize a local jurisdiction that provides for the residential collection and disposal of solid waste that proposes to enact an ordinance governing the collection and diversion of household hazardous waste to adopt one of the model ordinances adopted by the department. The bill would require the department to determine whether a nonprofit organization has been created and funded to make grants to local jurisdictions for specified purposes relating to household hazardous waste disposal and would specify that if the department does not determine that such a nonprofit organization exists by December 31, 2018, then the bill's provisions would be repealed on January 1, 2019.

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

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 ~~(+)~~
- 4 *(a)* Household hazardous waste is creating environmental,
- 5 health, and workplace safety issues. Whether due to unused
- 6 pharmaceuticals, batteries, medical devices, or other disposable

1 consumer items, effective and efficient disposal remains an
2 extraordinary challenge.

3 (2)

4 (b) State and local efforts to address disposal of these items
5 have been well intended and, in some cases, effective. However,
6 even the most effective programs have very low consumer
7 participation. Other approaches being promoted throughout the
8 state would fragment the collection of household hazardous waste
9 and move collection away from consumer convenience.

10 (3)

11 (c) In addition to other programs for the collection of household
12 hazardous waste, a number of cities in California are already using
13 curbside household hazardous waste collection programs,
14 door-to-door household hazardous waste collection programs, and
15 household hazardous waste residential pickup services as
16 mechanisms for collecting and disposing of many commonly used
17 household items for which disposal has been the subject of state
18 legislation ~~or~~ and local ordinances. The waste disposal companies
19 and local governments that have implemented these programs have
20 found them to be valuable components of a comprehensive
21 approach to the management of household hazardous waste.

22 (4)

23 (d) There is also an appropriate role for manufacturers and
24 distributors of these products in comprehensive efforts to more
25 effectively manage household hazardous waste. That role should
26 be based on the ability of manufacturers and distributors to
27 communicate with consumers.

28 ~~(b) It is the intent of the Legislature to enact legislation that~~
29 ~~would establish curbside household hazardous waste collection~~
30 ~~programs, door-to-door household hazardous waste collection~~
31 ~~programs, and household hazardous waste residential pickup~~
32 ~~services as the principal means of collecting household hazardous~~
33 ~~waste and diverting it from California's landfills and waterways.~~

34 SEC. 2. Article 3.4 (commencing with Section 47120) is added
35 to Chapter 1 of Part 7 of Division 30 of the Public Resources Code,
36 to read:

1 Article 3.4. Household Hazardous Waste Collection and
2 Reduction
3

4 47120. For purposes of this article, the following terms have
5 the following meanings:

6 (a) “Comprehensive program for the collection of household
7 hazardous waste” means a local program that may include, but is
8 not limited to, the following components:

9 (1) Utilization of locally sponsored collection sites.

10 (2) Scheduled and publicly advertised ~~drop-off~~ *drop-off* days.

11 (3) Door-to-door collection programs.

12 (4) Mobile collection programs.

13 (5) Dissemination of information about how consumers should
14 dispose of the various types of household hazardous waste.

15 (6) Education programs to promote consumer understanding
16 and use of the local components of a comprehensive program.

17 (b) “Household hazardous waste” includes, but is not limited
18 to, the following:

19 (1) Automotive products, including, but not limited to,
20 antifreeze, batteries, brake fluid, motor oil, oil filters, fuels, wax,
21 and polish.

22 (2) Garden chemicals, including, but not limited to, fertilizers,
23 herbicides, insect sprays, pesticides, and weed killers.

24 (3) Household chemicals, including, but not limited to, ammonia,
25 cleaners, strippers, and rust removers.

26 (4) Paint products, including, but not limited to, paint, caulk,
27 glue, stripper, thinner, and wood preservatives and stain.

28 (5) Consumer electronics, including, but not limited to,
29 televisions, computers, laptops, monitors, keyboards, DVD and
30 CD players, VCRs, MP3 players, cell phones, desktop printers,
31 scanners, fax machines, ~~mouses~~, *computer mice*, microwaves, and
32 related cords.

33 (6) Swimming pool chemicals, including, but not limited to,
34 chlorine tablets and liquids, pool acids, and stabilizers.

35 (7) Household batteries. For purposes of this section, “household
36 batteries” means batteries that individually weigh two kilograms
37 or less of mercury, alkaline, carbon-zinc, or nickel-cadmium, and
38 any other batteries typically generated as household waste,
39 including, but not limited to, batteries used to provide power for
40 consumer electronic and personal goods often found in a household.

1 (8) Fluorescent tubes and compact ~~fluorescent~~ *fluorescent* lamps.

2 (9) Mercury-containing items, including, but not limited to,
3 thermometers, thermostats, and switches.

4 (10) Home-generated sharps waste, as defined in Section 117671
5 of the Health and Safety Code.

6 (11) Home-generated pharmaceutical waste. For purposes of
7 this section, “home-generated pharmaceutical waste” means a
8 prescription or nonprescription drug, as specified in Section 4022
9 or 4025.1 of the Business and Professions Code, that is a waste
10 generated by a household or households. “Home-generated
11 pharmaceutical waste” shall not include drugs for which producers
12 provide a take-back program as a part of a United States Food and
13 Drug ~~Administration managed~~ *Administration-managed* risk
14 evaluation and mitigation strategy pursuant to Section 355-1 of
15 Title 21 of the United States Code, or waste generated by a
16 business, corporation, limited partnership, or an entity involved
17 in a wholesale transaction between a distributor and a retailer.

18 ~~47121. (a) (1) On or before July 1, 2020, each jurisdiction~~
19 ~~shall increase its collection and diversion of household hazardous~~
20 ~~waste in its service area by 15 percent over its baseline amount,~~
21 ~~as established pursuant to subdivision (b).~~

22 ~~(2) Notwithstanding paragraph (1), a jurisdiction that has in~~
23 ~~place or adopts an ordinance implementing a comprehensive~~
24 ~~program for the collection of household hazardous waste shall~~
25 ~~have an additional two years to meet the collection and diversion~~
26 ~~objective in paragraph (1).~~

27 ~~(b) No later than July 1, 2016, each jurisdiction shall inform the~~
28 ~~department of its baseline amount of collection and diversion of~~
29 ~~hazardous waste in accordance with regulations adopted by the~~
30 ~~department. The baseline amount may be expressed in tonnage or~~
31 ~~by the number of households participating, and may focus on~~
32 ~~particular types of household hazardous waste.~~

33 ~~47122. (a) The department shall adopt regulations to implement~~
34 ~~this article.~~

35 ~~(b) The department may adopt a model ordinance for a~~
36 ~~comprehensive program for the collection of household hazardous~~
37 ~~waste to facilitate compliance with this article.~~

38 ~~47123. Commencing July 1, 2020, and annually thereafter,~~
39 ~~each jurisdiction shall report to the department on progress~~
40 ~~achieved in complying with this section. A jurisdiction shall make~~

1 a good faith effort to comply with this section, and the department
2 may determine whether a jurisdiction has made a good faith effort
3 for purposes of this program. To the maximum extent practicable,
4 it is the intent of the Legislature that reporting requirements under
5 this section be satisfied by submission of similar reports currently
6 required by law.

7 ~~47124. This article does not apply to a jurisdiction that does
8 not provide for the residential collection and disposal of solid
9 waste.~~

10 *47121. (a) The department, in consultation with affected
11 industries and stakeholders, shall adopt one or more model
12 ordinances for a comprehensive program for the collection of
13 household hazardous waste for adoption by any local jurisdiction
14 that provides for the residential collection and disposal of solid
15 waste.*

16 *(b) Upon adoption of the model ordinance or ordinances by the
17 department, the department shall notify the public by posting the
18 model ordinance or ordinances on the department's Internet Web
19 site.*

20 *(c) After the department posts the model ordinance or
21 ordinances on its Internet Web site, a local jurisdiction that
22 proposes to enact an ordinance governing the collection and
23 diversion of household hazardous waste may adopt one of the
24 department's model ordinances.*

25 *47122. (a) The department shall determine whether an
26 appropriate nonprofit organization has been created and funded
27 for the purpose of making grants to local governments to assist
28 with both of the following activities:*

29 *(1) Educating residents of communities on the existence of
30 household hazardous waste disposal programs and how to use
31 them.*

32 *(2) Defraying the cost of components of local government
33 household hazardous waste programs.*

34 *(b) In making the determination set forth in subdivision (a), the
35 department shall take all of the following into consideration:*

36 *(1) Whether the nonprofit organization has, at the time of the
37 determination, a minimum of five million dollars (\$5,000,000)
38 dedicated to grants to local governments for the purposes set forth
39 in subdivision (a).*

1 (2) Whether the nonprofit organization will have sufficient
2 funding to allocate grants to local governments throughout the
3 state for five years.

4 (3) Whether the composition of the nonprofit's board of directors
5 is sufficiently diverse and experienced to appropriately consider
6 grant applications that will positively impact efforts to improve
7 disposal of household hazardous waste.

8 (4) Whether the nonprofit organization has appropriate criteria
9 for considering grant applications.

10 (c) Upon making a determination that an appropriate nonprofit
11 organization exists as set forth in subdivision (a), the department
12 shall post the fact that the department has made this determination
13 on the department's Internet Web site.

14 47123. This article is applicable only to local jurisdictions that
15 provide for the residential collection and disposal of solid waste.

16 47124. If the department does not make the determination that
17 there exists an appropriate nonprofit organization, as specified in
18 subdivision (a) of Section 47122, by December 31, 2018, this
19 article shall be repealed on January 1, 2019.

20 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
21 ~~Section 6 of Article XIII B of the California Constitution because~~
22 ~~a local agency or school district has the authority to levy service~~
23 ~~charges, fees, or assessments sufficient to pay for the program or~~
24 ~~level of service mandated by this act, within the meaning of Section~~
25 ~~17556 of the Government Code.~~