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LOS ANGELES COUNTY  
SOLID WASTE MANAGEMENT COMMITTEE/  
INTEGRATED WASTE MANAGEMENT TASK FORCE  
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April 2, 2015

The Honorable Das Williams, Chair  
Assembly Natural Resources Committee  
1020 N Street, Room 164  
Sacramento, CA 95814

Dear Assembly Member Williams:

**ASSEMBLY BILL 1159 – SUPPORT  
SOLID WASTE: PRODUCT STEWARDSHIP: PILOT PROGRAMS**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) **supports** Assembly Bill 1159 (AB 1159) as to be amended consistent with the enclosed document: RN 15 11107, dated March 30, 2015. The amended bill would establish a product stewardship pilot program for home-generated sharps waste and household batteries. The intent of this pilot program would be to establish a requirement for producers and/or product stewardship organizations to design and implement product stewardship plans for the effective collection and end-of-life management of these covered products.

Although it has been illegal to dispose of home-generated sharps waste in trash or recycling containers since 2008, the problem remains pervasive. This practice presents a dangerous and hazardous threat to sanitation handling professionals Statewide. Used sharps can carry infectious and even deadly diseases. There are many cases in recent years of solid waste workers and the general public coming into contact with illegally disposed sharps. Being punctured by a used sharp is a painful and stressful experience for the victim and their family, involving many medical visits and blood tests to determine if a long-term or even life-threatening disease has been transmitted from the puncture wound. It is also costly for employers and their insurers. Moreover, local governments have carried the financial burden of establishing, funding, and managing home-generated sharps collection programs.

In 2006, the California Universal Waste Rule made it unlawful to dispose of household batteries with conventional trash collections due to their toxic and corrosive chemical nature. Unfortunately, the State did not adopt any mechanism for enforcing this ban or providing an alternative mechanism for residents to properly dispose of these materials

nor did they provide any funding to local government to do so. As a result, proactive local governments have been financing expensive battery collection and recycling programs using taxpayer and utility rate payer funds.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939], as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

The stewardship model proposed in the amended AB 1159 has been a successful method of handling difficult materials as evidenced by California's paint stewardship program, which has already saved jurisdictions across the state millions of dollars. Among the most valuable components of the amended AB 1159 is the requirement that CalRecycle report to the Legislature the amount of money saved in recovery costs by State and local governments as a result of its implementation, ensuring a continued monitoring of the program's fiscal viability.

The Task Force has been an ardent supporter of Extended Producer Responsibility (EPR) legislation as a way to alleviate the burden imposed upon local governments in managing products at the end of their useful life while shifting a reasonable proportion of that responsibility over to the manufacturers and producers of those products.

For the foregoing reasons, the Task Force **supports AB 1159**. Should you have any questions regarding this matter, please contact Mr. Mike Mohajer of the Task Force at [MikeMohajer@yahoo.com](mailto:MikeMohajer@yahoo.com) or at (909) 592-1147.

Sincerely,



Margaret Clark, Vice-Chair  
Los Angeles County Solid Waste Management Committee/  
Integrated Waste management Task Force and  
Mayor Pro-Tem, City of Rosemead

Assembly Member Das Williams

April 2, 2015

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Enc.

cc: Assembly Member Richard Gordon  
Each Member of the Assembly Natural Resources Committee  
California Product Stewardship Council  
California State Association of Counties  
League of California Cities  
Each member of the Los Angeles County Board of Supervisors  
San Gabriel Valley Council of Governments  
South Bay Cities Council of Governments  
Gateway Cities Council of Governments  
Westside Cities Council of Governments  
Each City Mayor and City Manager in the County of Los Angeles  
Each City Recycling Coordinator in Los Angeles County  
Each Member of the Los Angeles County Integrated Waste Management Task Force

## AMENDMENTS TO ASSEMBLY BILL NO. 1159

## Amendment 1

In the title, strike out lines 1 and 2 and insert:

An act to add and repeal Chapter 19.5 (commencing with Section 42968) of Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

## Amendment 2

On page 1, before line 1, insert:

SECTION 1. Chapter 19.5 (commencing with Section 42968) is added to Part 3 of Division 30 of the Public Resources Code, to read:

## CHAPTER 19.5. PRODUCT STEWARDSHIP PILOT PROGRAM

## Article 1. Definitions

42968. “Collection rate” means the percentage of covered products, by weight, that are collected during a calendar year by a product stewardship organization as compared to the average annual weight of all covered products that were estimated to have been sold in the state during the previous three years by that product stewardship organization’s members or the individual producer. The collection rate of a product stewardship organization of covered products may be based on a reasonable pro rata calculation of national sales.

42968.01. “Consumer” means a purchaser, owner, or lessee of a product, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity.

42968.02. “Consumer product” means a product that is sold in this state in a transaction that is a retail sale or in a transaction to which a use tax applies pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

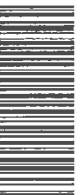
42968.04. “Covered product” means a consumer product that is used or discarded in this state and is either of the following:

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

(b) Household batteries, as defined in subdivision (c) of Section 42450.

42968.06. “Department” means the Department of Resources Recycling and Recovery.

42968.07. “Geographic coverage” means the number of convenient collection sites provided by a product stewardship organization, free of charge, for consumers in each county of the state where the product stewardship organization’s members or the individual producer sell, offer for sale, or distribute a covered product.



42968.08. "Performance standards" means the standards set by the department pursuant to Section 42968.22.

42968.10. "Producer," with regard to a covered product that is sold, offered for sale, or distributed in the state, means one of the following:

(a) A person who manufactures the covered product and who sells, offers for sale, or distributes that covered product in the state under that person's own name or brand.

(b) If there is no person who sells, offers for sale, or distributes the covered product in the state under the person's own name or brand, the producer of the covered product is the owner or licensee of a trademark or brand under which the covered product is sold or distributed in the state, whether or not the trademark is registered.

(c) If there is no person who is a producer of the covered product for purposes of subdivisions (a) and (b), the producer of that covered product is the person who imports the product into the state for sale or distribution.

42968.12. "Product stewardship organization" means either of the following:

(a) An organization created by one or more producers of a covered product to act as an agent on behalf of the producer to design, submit, and administer a product stewardship plan pursuant to this chapter.

(b) A producer of a covered product that complies with this chapter as an individual producer.

42968.14. "Product stewardship plan" or "plan" means a plan written by an individual producer or a product stewardship organization that includes all of the information required by Section 42968.32.

## Article 2. General Provisions

42968.20. Each product stewardship organization of a covered product in this state shall develop and implement a product stewardship plan in accordance with the provisions of this chapter.

42968.22. (a) On or before January 1, 2017, the department shall adopt regulations to implement the provisions of this chapter. The regulations shall, at a minimum, include:

(1) Performance standards for a covered product that are to be met by a product stewardship plan, which shall include a minimum collection rate for a covered product and appropriate geographic coverage for a covered product.

(2) Procedures for product stewardship plan submittal to the department.

(3) The appointment of a stakeholder advisory committee, as described in Article 6 (commencing with Section 42968.60).

(b) Regulations adopted pursuant to subdivision (a) shall have no effect after the repeal of this chapter.

42968.26. (a) Except as provided in subdivision (b), any action by a product stewardship organization or its members that relates to any of the following is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code):

(1) The creation, implementation, or management of a product stewardship plan approved by the department pursuant to Section 42968.34.

(2) The cost and structure of an approved product stewardship plan.

(b) Subdivision (a) does not apply to an agreement that does any of the following:

(1) Fixes a price of or for a covered product, except for any agreement related to a product stewardship plan approved by the department and otherwise in accordance with this chapter.

(2) Fixes the output of production of a covered product.

(3) Restricts the geographic area in which, or customers to whom, a covered product will be sold.

### Article 3. Product Stewardship Plan

42968.30. On or before July 1, 2017, a product stewardship organization shall submit a product stewardship plan to the department that will divert the covered product from landfills and manage the covered product in a manner that is consistent with the state's hierarchy for waste management practices pursuant to Section 40051.

42968.32. A product stewardship plan required to be submitted pursuant to Section 42968.30 shall include all of the following:

(a) Strategies to achieve the performance standards set by the department pursuant to Section 42968.22.

(b) Strategies for managing and reducing the life-cycle impacts of the covered product.

(c) A funding mechanism that provides sufficient funding to carry out the plan, including the administrative, operational, and capital costs of the plan, and payment of fees pursuant to Section 42968.40.

(d) A process by which the financial activities of the product stewardship organization that are related to implementation of the plan will be subject to an independent audit, which may be reviewed by the department.

42968.34. (a) Within 30 days after the department receives a plan submitted pursuant to Section 42968.30, the department shall review the plan, and determine whether the plan is complete or incomplete. If the department does not deem the plan complete, the department shall notify the product stewardship organization that submitted the plan of the deficiencies, and the product stewardship organization shall revise and resubmit the plan within 30 days of receiving the notice.

(b) If the department determines that the plan is complete, the department shall have 60 days after determining the plan is complete to determine whether it complies with Section 42968.32, and notify the submitter of its decision to approve or not approve the plan.

(c) If the department does not approve the plan, it shall describe the reasons for its disapproval in the notice. The submitter may revise and resubmit the plan within 60 days after receiving notice of disapproval and the department shall review and approve or not approve the revised plan within 60 days after receipt. Any plan not approved by January 1, 2018, shall be out of compliance with this chapter and, commencing July 1, 2018, if the plan is not approved as of that date, the submitter of

the plan is subject to the penalties specified in Section 42968.50 until the plan is approved by the department.

#### Article 4. Financial Provisions

42968.40. (a) A product stewardship organization submitting a product stewardship plan shall pay the department an annual administrative fee. The department shall set the fee at an amount that, when paid by every product stewardship organization that submits a product stewardship plan, is adequate to cover the department's full costs of administering and enforcing this chapter, including any program development costs or regulatory costs incurred by the department prior to product stewardship plans being submitted. The department may establish a variable fee based on relevant factors, including, but not limited to, the portion of covered products sold in the state by members of the organization compared to the total amount of covered products sold in the state by all organizations submitting a product stewardship plan.

(b) The total amount of annual fees collected pursuant to this section shall not exceed the amount necessary to recover costs incurred by the department in connection with the administration and enforcement of the requirements of this chapter.

(c) A product stewardship organization subject to this section shall pay the department the administrative fee pursuant to subdivision (a) on or before \_\_\_\_\_, and annually thereafter through \_\_\_\_\_.

(d) The department shall deposit the fees collected pursuant to this section into the Product Stewardship Account created pursuant to Section 42968.42.

42968.42. (a) The Product Stewardship Account and the Product Stewardship Penalty Subaccount are hereby established in the Integrated Waste Management Fund.

(b) All fees collected by the department pursuant to this article shall be deposited in the Product Stewardship Account and may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.

(c) All civil penalties collected pursuant to Article 5 (commencing with Section 42968.50) shall be deposited in the Product Stewardship Penalty Subaccount and may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.

#### Article 5. Penalties

42968.50. (a) A civil penalty up to the following amounts may be administratively imposed by the department or imposed by the court on any person who is in violation of any provision of this chapter:

(1) One thousand dollars (\$1,000) per day.

(2) Ten thousand dollars (\$10,000) per day if the violation is intentional, knowing, or negligent.

(b) In assessing or reviewing the amount of a civil penalty imposed pursuant to subdivision (a) for a violation of this chapter, the department or the court shall consider all of the following:

(1) The nature and extent of the violation or violations.

(2) The number and severity of the violation or violations.

- (3) The economic effect of the penalty on the violator.
  - (4) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
  - (5) The willfulness of the violator's misconduct.
  - (6) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
  - (7) Any other factor that justice may require.
- (Added by Stats. 2010, Ch. 681, Sec. 2. (AB 2398) Effective January 1, 2011.)  
42968.52. Moneys collected pursuant to this article shall be deposited in the Product Stewardship Penalty Subaccount, established pursuant to Section 42968.42.

#### Article 6. Stakeholder Advisory Committee

42968.60. (a) On or before March 1, 2017, the department shall appoint a stakeholder advisory committee for each covered product to provide technical feedback to a product stewardship organization. The stakeholder advisory committee shall report annually to the department on the progress of the product stewardship organizations' implementation of this chapter.

(b) Members of the advisory committee for a covered product shall include members of the environmental community, solid waste industry, local governments, retailers, and other key stakeholders for that covered product.

(c) The stakeholder advisory committee for a covered product shall be independent of the product stewardship organizations for that covered product. The advisory committee's expenses shall be covered by its members and not the product stewardship organizations for that covered product or the state.

(d) A product stewardship organization for a covered product shall have no control over the advisory committee for that covered product or its activities.

#### Article 7. Reporting

42968.70. Beginning on or before the first January 1 more than one year after a product stewardship plan is approved, and on or before every January 1 thereafter, each product stewardship organization implementing a product stewardship plan shall prepare and submit to the department an annual report describing the activities carried out pursuant to the product stewardship plan during the previous reporting period, including, but not limited to, whether the product stewardship organization, in implementing the plan, attained the performance standards for the covered product, and if the performance standards were not met, what actions the product stewardship organization will take during the next reporting period to attain those performance standards.

42968.72. On or before July 1, 2023, the department shall report all of the following, for each covered product, to the appropriate committees of the Legislature:

- (a) The department's evaluation of each product stewardship organization.
- (b) Each product stewardship organization's evaluation of the department and the advisory committee.
- (c) Stakeholder advisory committee reports submitted to the department pursuant to Section 42968.60.



- (d) Audited financials of each product stewardship organization.
  - (e) The amount of money saved by state and local governments as a result of implementing a product stewardship plan.
  - (f) Whether the performance standards set by the department were met.
- 42968.74. The department may impose reporting requirements on product stewardship organizations and the stakeholder advisory committee of a covered product to ensure that the department is able to meet its reporting requirements to the Legislature pursuant to Section 42968.72.

Article 8. Repeal

42968.80. This chapter shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2024, deletes or extends that date.

Amendment 3

On page 1, strike out lines 1 and 2 and strike out page 2