

AMENDED IN ASSEMBLY MARCH 20, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 703

Introduced by Assembly Member Hall

February 21, 2013

~~An act to amend Section 25256.1 of the Health and Safety Code, relating to hazardous materials. An act to amend Section 11346.3 of the Government Code, relating to regulations.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as amended, Hall. ~~Hazardous materials: chemicals of concern: data evaluation. Administrative Procedure Act: adverse economic impact assessment.~~

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires an agency proposing to take specified regulatory actions relating to a regulation that is not a major regulation, as defined, or that is a major regulation proposed before November 1, 1993, to perform an economic impact assessment of that action on businesses and individuals, as specified.

This bill would require a state agency to include in its economic impact assessment whether and to what extent the regulatory action would affect the incentives for innovation in products, materials, or processes.

~~Existing law requires the Department of Toxic Substances Control to adopt regulations that establish a process to identify and prioritize chemicals or chemical ingredients in consumer products, that may be considered a chemical of concern establish a process for evaluating~~

~~chemicals of concern in consumer products and their potential alternatives for the purposes of limiting exposure or to reduce the level of hazard posed by chemicals of concern, and specify a range of regulatory responses that the department may take following the evaluation. Existing law requires to department to establish a Toxics Information Clearinghouse and requires the Office of Environmental Health Hazard Assessment to evaluate and specify the hazard traits, and environmental and toxicological end-point data to be included in the clearinghouse.~~

~~This bill would make nonsubstantive changes to the provision requiring the office to evaluate and specify data to be included in the Clearinghouse.~~

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

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

1 SECTION 1. Section 11346.3 of the Government Code is
2 amended to read:
3 11346.3. (a) State agencies proposing to adopt, amend, or
4 repeal any administrative regulation shall assess the potential for
5 adverse economic impact on California business enterprises and
6 individuals, avoiding the imposition of unnecessary or unreasonable
7 regulations or reporting, recordkeeping, or compliance
8 requirements. For purposes of this subdivision, assessing the
9 potential for adverse economic impact shall require agencies, when
10 proposing to adopt, amend, or repeal a regulation, to adhere to the
11 following requirements, to the extent that these requirements do
12 not conflict with other state or federal laws:
13 (1) The proposed adoption, amendment, or repeal of a regulation
14 shall be based on adequate information concerning the need for,
15 and consequences of, proposed governmental action.
16 (2) The state agency, prior to submitting a proposal to adopt,
17 amend, or repeal a regulation to the office, shall consider the
18 proposal’s impact on business, with consideration of industries
19 affected including the ability of California businesses to compete
20 with businesses in other states. For purposes of evaluating the
21 impact on the ability of California businesses to compete with
22 businesses in other states, an agency shall consider, but not be
23 limited to, information supplied by interested parties.

1 (3) An economic assessment prepared pursuant to this
2 subdivision for a proposed regulation that is not a major regulation
3 or that is a major regulation proposed prior to November 1, 2013,
4 shall be prepared in accordance with subdivision (b). An economic
5 assessment prepared pursuant to this subdivision for a major
6 regulation proposed on or after November 1, 2013, shall be
7 prepared in accordance with subdivision (c), and shall be included
8 in the initial statement of reasons as required by Section 11346.2.

9 (b) (1) All state agencies proposing to adopt, amend, or repeal
10 a regulation that is not a major regulation or that is a major
11 regulation proposed prior to November 1, 2013, shall prepare an
12 economic impact assessment that assesses whether and to what
13 extent it will affect the following:

14 (A) The creation or elimination of jobs within the state.

15 (B) The creation of new businesses or the elimination of existing
16 businesses within the state.

17 (C) The expansion of businesses currently doing business within
18 the state.

19 (D) The benefits of the regulation to the health and welfare of
20 California residents, worker safety, and the state's environment.

21 (E) *The incentives for innovation in products, materials, or*
22 *processes.*

23 (2) This subdivision does not apply to the University of
24 California, the Hastings College of the Law, or the Fair Political
25 Practices Commission.

26 (3) Information required from state agencies for the purpose of
27 completing the assessment may come from existing state
28 publications.

29 (c) (1) Each state agency proposing to adopt, amend, or repeal
30 a major regulation on or after November 1, 2013, shall prepare a
31 standardized regulatory impact analysis in the manner prescribed
32 by the Department of Finance pursuant to Section 11346.36. The
33 standardized regulatory impact analysis shall address all of the
34 following:

35 (A) The creation or elimination of jobs within the state.

36 (B) The creation of new businesses or the elimination of existing
37 businesses within the state.

38 (C) The competitive advantages or disadvantages for businesses
39 currently doing business within the state.

40 (D) The increase or decrease of investment in the state.

1 (E) The incentives for innovation in products, materials, or
2 processes.

3 (F) The benefits of the regulations, including, but not limited
4 to, benefits to the health, safety, and welfare of California residents,
5 worker safety, and the state's environment and quality of life,
6 among any other benefits identified by the agency.

7 (2) This subdivision shall not apply to the University of
8 California, the Hastings College of the Law, or the Fair Political
9 Practices Commission.

10 (3) Information required from state agencies for the purpose of
11 completing the analysis may be derived from existing state, federal,
12 or academic publications.

13 (d) Any administrative regulation adopted on or after January
14 1, 1993, that requires a report shall not apply to businesses, unless
15 the state agency adopting the regulation makes a finding that it is
16 necessary for the health, safety, or welfare of the people of the
17 state that the regulation apply to businesses.

18 (e) Analyses conducted pursuant to this section are intended to
19 provide agencies and the public with tools to determine whether
20 the regulatory proposal is an efficient and effective means of
21 implementing the policy decisions enacted in statute or by other
22 provisions of law in the least burdensome manner. Regulatory
23 impact analyses shall inform the agencies and the public of the
24 economic consequences of regulatory choices, not reassess
25 statutory policy. The baseline for the regulatory analysis shall be
26 the most cost-effective set of regulatory measures that are equally
27 effective in achieving the purpose of the regulation in a manner
28 that ensures full compliance with the authorizing statute or other
29 law being implemented or made specific by the proposed
30 regulation.

31 (f) Each state agency proposing to adopt, amend, or repeal a
32 major regulation on or after November 1, 2013, and that has
33 prepared a standardized regulatory impact analysis pursuant to
34 subdivision (c), shall submit that analysis to the Department of
35 Finance upon completion. The department shall comment, within
36 30 days of receiving that analysis, on the extent to which the
37 analysis adheres to the regulations adopted pursuant to Section
38 11346.36. Upon receiving the comments from the department, the
39 agency may update its analysis to reflect any comments received
40 from the department and shall summarize the comments and the

1 response of the agency along with a statement of the results of the
2 updated analysis for the statement required by paragraph (10) of
3 subdivision (a) of Section 11346.5.

4 ~~SECTION 1. Section 25256.1 of the Health and Safety Code~~
5 ~~is amended to read:~~

6 ~~25256.1. On or before January 1, 2011, the office shall evaluate~~
7 ~~and specify the hazard traits, the environmental and toxicological~~
8 ~~end-points, and any other relevant data that shall be included in~~
9 ~~the clearinghouse. The office shall conduct this evaluation in~~
10 ~~consultation with the department and all appropriate state agencies,~~
11 ~~after conducting one or more public workshops, and providing an~~
12 ~~opportunity for all interested parties to comment. The office may~~
13 ~~seek information from other states, the federal government, and~~
14 ~~other nations in implementing this section.~~