

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2899 (Ting)
Version: April 20, 2022
Hearing Date: June 8, 2022
Fiscal: Yes
Urgency: No
AM

SUBJECT

California Hazardous Substances Act: misbranded and banned hazardous substances:
hearing procedure

DIGEST

This bill requires a copy of a petition and notice of a hearing under the California Hazardous Substances Act related to the detained or quarantined hazardous substances or misbranded hazardous substances to be posted for 21 days before the hearing instead of 14 days and requires the notice to be posted on the State Department of Public Health's (DPH) website and the website of the superior court in which the hearing will be held.

EXECUTIVE SUMMARY

The California Hazardous Substances Act prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State or the introduction into the State of any package of a misbranded hazardous substance or banned hazardous substance, as defined. If a misbranded or banned hazardous substance is quarantined or detained by an agent of DPH, existing law requires DPH to commence proceedings in the name of the people of the State of California in the superior court of the county or city and county in which the substance is detained or quarantined as provided. Existing law requires that notice be posted 14 days prior to the hearing in at least three public places in the city or city and county where the court is held and in a conspicuous place where the substance is detained or quarantined. This bill seeks to modernize these notice requirements, which have not been updated since 1995, by requiring notice to be posted 21 days before the hearing and for the notice to additionally be posted on DPH's website and the website of the superior court in which the hearing will be held.

This bill is author sponsored. There is no known support or opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the California Hazardous Substances Act (Act) and prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of California, or the introduction into this state from any other state, territory, or the District of Columbia, or from any foreign country, of any package of a misbranded hazardous substance or banned hazardous substance. (Health and Safe. Code § 108100 et. seq & 108240.¹)
- 2) Defines “banned hazardous substance” to mean either:
 - a) any toy, or other article intended for use by children, that is a hazardous substance, or that bears or contains a hazardous substance in the manner as to be susceptible of access by a child to whom the toy or other article is entrusted; or
 - b) any hazardous substance intended or packaged in a form suitable, for use in the household, that DPH by regulation classifies as a “banned hazardous substance” on the basis of a finding that the degree or nature of the hazard involved in the presence or use of that substance in households is that the objective of the protection of the public health and safety can be adequately served only by keeping that substance, when so intended or packaged, out of the channels of intrastate commerce. (§ 108205.)
- 3) Defines a “misbranded hazardous substance” to mean a hazardous substance (including a toy or other article intended for use by children, that is a hazardous substance, or that bears or contains a hazardous substance in the manner as to be susceptible of access by a child to whom the toy or other article is entrusted) intended, or packaged in a form suitable for use in the household or by children if the packaging or labeling of the substance is in violation of an applicable regulation issued by DPH, or fails to include specified labels. (§ 108200.)
- 4) Defines a “hazardous substance” to mean any of the following:
 - a) a substance or mixture of substances that is toxic, is corrosive, is an irritant, is a strong sensitizer, is flammable or combustible, or generates pressure through decomposition, heat, or other means, and if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
 - b) a radioactive substance, if, with respect to the substance as used in a particular class of article or as packaged, DPH determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with the Act; or

¹ All further references are to the Health and Safety Code unless specified otherwise.

- c) a toy or other article intended for use by children that DPH determines, by regulation, presents an electrical, mechanical, or thermal hazard. (§ 108125.)
- 5) Requires an authorized agent of DPH, if they find or have probable cause to believe that any hazardous substance is so misbranded as to be dangerous or fraudulent or is a banned hazardous substance, to affix to the article a tag, or other appropriate marking, giving notice that the article is, or is suspected of being, misbranded and has been detained or quarantined, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the department or the court. (§ 108375.)
- 6) Requires DPH to commence proceedings in the name of the people of the State of California in the superior court of the county or city and county in which the substance is detained or quarantined by petitioning the court for a judgment to forfeit, condemn, and destroy the article when a misbranded hazardous substance or a banned hazardous substance is detained or quarantined. (§ 108390.)
- 7) Requires the clerk of the court, upon the filing of the petition, to fix a time and place for the hearing and cause notices to be prepared notifying all persons who may claim an interest in the substance of the time and place of the hearing.
 - a) A copy of the petition and notice is to be posted for 14 days in at least three public places in the city or city and county where the court is held and in a conspicuous place where the substance is detained or quarantined before the hearing.
 - b) Additionally, a notice is to be served upon each person in possession of the substance and on each owner or claimant whose name and address is known, as provided. (*Ibid.*)

This bill:

- 1) Requires the notice to be posted for 21 days instead of 14 days before the hearing.
- 2) Requires the notice to be posted on the DPH's website and the website of the superior court in which the hearing will take place, in addition to existing posting requirements.

COMMENTS

1. Stated need for the bill

The author writes:

AB 2899 seeks to modernize the hearing notice requirements of the California Hazardous Substances Act, which have not been meaningfully updated since 1995. The California Hazardous Substances Act requires notices for misbranded

and banned hazardous substances that are quarantined or being detained for legal proceedings to be posted and available to the public for a total of 14 days.

This bill expands public access to these notices by expanding the notice timeline from 14 days to 21 days and requires these notices to be posted online on the Department of Public Health's website and the website of the superior court in which the hearing will be taking place. In doing so, it ensures that the public has ample time to participate in the hearing process.

2. This bill will update notice requirements under the California Hazardous Substances Act to increase the notice period and require notice to be posted online

The California Hazardous Substances Act prohibits the manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State or the introduction into the State of any package of a misbranded hazardous substance or banned hazardous substance, as defined. (§ 108240.) Existing law provides that DPH or its duly authorized agent have free access at all reasonable hours to any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold hazardous substances in commerce as specified. (§ 108370.) If a misbranded or banned hazardous substance is quarantined or detained by an agent of DPH, existing law requires DPH to commence proceedings in the name of the people of the State of California in the superior court of the county or city and county in which the substance is detained or quarantined as provided. (§ 108375 & § 108390.) Existing law requires that notice be posted 14 days prior to the hearing in at least three public places in the city or city and county where the court is held and in a conspicuous place where the substance is detained or quarantined. (§ 108390.) According to the author, this bill seeks to modernize these notice requirements, which have not been updated since 1995. The bill requires notice of a hearing to be posted 21 days before the hearing instead of 14 days. The bill also requires the notice to be posted on DPH's website and the website of the superior court in which the hearing will be held in addition to existing requirements. The author argues providing a longer notice period and requiring the notice to be posted online will expand access for the public to these proceedings.

SUPPORT

None known

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: None known.

PRIOR VOTES:

Assembly Floor (Ayes 65, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 9, Noes 0)
