

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 404 (Caballero) – As Amended July 17, 2025

Policy Committee: Environmental Safety and Toxic Materials      Vote: 6 - 1

Urgency: No      State Mandated Local Program: Yes      Reimbursable: No

**SUMMARY:**

This bill establishes a new regulatory structure at the Department of Toxic Substances Control (DTSC) for metal shredding facilities, separate from laws governing the control of hazardous waste.

Specifically, this bill, among other things:

- 1) Provides that a metal shredding facility that is subject to regulation and complies with the requirements of this bill is not a hazardous waste facility. However, further provides that this bill does not alter or override the authority of DTSC or a Unified Program Agency to regulate ancillary hazardous waste generated at a metal shredding facility in accordance with Chapter 6.5 of Title 22 of the California Code of Regulations (the state's hazardous waste control law (HWCL)).
- 2) Requires DTSC to adopt regulations related to the imposition of fees on metal shredding facilities, allows DTSC to use emergency regulations for this purpose, and authorizes the department to adopt and update regulations as necessary to implement the remaining provisions of this bill.
- 3) Requires a metal shredding facility to receive a permit from DTSC to operate in the state and specifies numerous requirements and procedures, including, among other things, requirements for obtaining a permit, for being deemed to have a permit, for operating a metal shredding facility, for managing metal shredder aggregate, for transporting certain materials related to metal shredding, for providing notice, and for maintaining a closure plan.
- 4) Requires DTSC, among many other things, to hold a public meeting before making a decision to approve or deny an application, to take final action on a permit application by an existing facility within three years, as provided, to post on its website general information about each metal shredding facility that has applied for or obtained a permit, and to conduct at least one site visit to the applicant's facility after receipt of a permit application.
- 5) Requires DTSC to collect an annual fee from each metal shredding facility subject to the requirements of this bill at a rate sufficient to reimburse the department's reasonable costs to implement all aspects of this bill, other than costs incurred in connection with DTSC's review and issuance of metal shredding facility permits. Requires the fee established pursuant to this bill be deposited in the Metal Shredders Facility Account (MSFA) and to be sufficient to reimburse the department's reasonable costs to implement AB 2851 (Bonta),

Chapter 743, Statutes of 2024 (related to fence-line air quality monitoring at metal shredding facilities), as provided. Allows DTSC's Board of Environmental Safety (BES) to annually adjust fees, and specifies factors DTSC must consider in establishing the fee amount. Exempts a metal shredding facility paying an annual fee in accordance with this bill from certain existing fees, except as specified.

- 6) Requires a person who applies for a metal shredding facility permit under this bill to enter into a written agreement with DTSC to reimburse the department for the direct costs reasonably incurred by the department in processing the application, as specified. Requires this agreement to provide for a 25% advance payment. Requires an applicant for a metal shredding facility permit to also pay all costs incurred by DTSC for purposes of complying with the California Environmental Quality Act (CEQA).
- 7) Provides that certain authority granted to DTSC in Chapter 6.5 and its implementing regulations may be used to enforce this bill, as specified. Authorizes DTSC, under specified conditions, to order the temporary cessation of shredder operations, prohibit the receipt of additional shredder feedstock by the facility, and prohibit the receipt of shredder feedstock at a metal shredding facility on a temporary basis. Authorizes DTSC to deny, revoke, or suspend a permit authorizing the operation of a metal shredding facility under specified conditions.

#### **FISCAL EFFECT:**

- 1) DTSC estimates ongoing costs of up to \$1.6 million (MSFA, other funds) and four positions to cover is oversight and regulatory costs. The bill requires that all of DTSC's costs be reimbursed by an annual fee imposed on metal shredding facilities, as well as via a reimbursement agreement to cover the department's direct costs related to processing permit applications. DTSC notes its cost estimates are based on the workload related to its oversight of metal shredding facilities currently operating in the state, and that an increase in the number of facilities seeking permits may necessitate additional resources. The bill does not include a fund source for startup and initial implementation costs; DTSC would need a loan from a different fund for this purpose, which it would reimburse after sufficient revenues accumulate in the MSFA.
- 2) The Department of Justice (DOJ) anticipates costs of an unknown, but potentially significant, amount (Legal Services Revolving Fund, General Fund) related to client (DTSC) representation, litigation, and enforcement-related work.
- 3) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown amount to the courts to adjudicate civil or criminal actions authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations.

#### **COMMENTS:**

1) **Purpose.** According to the author:

The current framework for hazardous waste does not include metal shredding facilities and therefore the facilities are not required to obtain a permit and are not regulated by [DTSC]. Without a comprehensive regulatory framework, DTSC on their own has begun to regulate the industry on a facility-by-facility basis using a hazardous waste enforcement framework, creating an uncertain and inconsistent legal environment, which has resulted in litigation. SB 404 will resolve this uncertainty, allow the pending litigation to be dismissed, and ensure comprehensive and robust oversight and enforcement of metal shredding facilities under DTSC's authority.

2) **Background.** DTSC defines a metal shredder as an entity that processes end-of-life vehicles, appliances, and other forms of scrap metal, separates recyclable materials from non-recyclable materials, and then sells the recyclable materials and disposes of the non-recyclable materials. There are currently nine metal shredding facilities in the state, some operating under regulatory authorization from the 1980s and 1990s. As discussed at length in the Assembly Environmental Safety and Toxic Materials Committee's analysis of this bill, some facilities began the permitting process for a full hazardous waste facility permit and others may have less certain authorization.

Among others in support of the bill, the California Metal Recyclers Coalition argues this bill "solves a problem that has threatened the economic viability of metal shredding facilities for almost a decade—the lack of clarity around how these critical facilities should be regulated." Because scrap metal is exempt from regulation under the HWCL, facilities that recycle these materials fall outside DTSC's permitting program. The coalition argues this bill establishes a new regulatory program tailored specifically to this industry that would be administered by DTSC under new authority. The coalition writes the state's metal shredders and DTSC "agree that a comprehensive regulatory program that recognizes the unique nature and importance of scrap metal is in the best interest of the industry and the state."

Among others in opposition, a coalition of environmental justice organizations argues this bill "deprives communities near certain hazardous waste facilities of necessary human health and environmental protections required by California's hazardous waste laws," and that "the bill's effort to create a separate, less comprehensive regulatory regime for metal shredding facilities does not solve, and may even exacerbate, these threats." Specifically, the coalition writes:

Metal shredder aggregate is hazardous waste and must be regulated as such under the hazardous waste law. Contrary to the bill's overly complicated approach, California should regulate metal shredding facilities under the existing hazardous waste requirements, including by promptly requiring the facilities to obtain hazardous waste permits with conditions necessary to protect human health and the environment. [DTSC] should then be directed to develop additional requirements, within the existing hazardous waste legal framework, tailored to address the ongoing problems we've seen at metal

shredding facilities—including fires and dispersal of heavy metals into surrounding communities.

Clean Harbors, which operates several permitted hazardous waste facilities in the state, asserts that, absent mention of a specific fund source in the bill to fund DTSC's startup costs, it is highly likely the department will rely on the Hazardous Waste Facility Account (HWFA) for a loan before it begins assessing the annual fee on metal shredding facilities. The HWFA is funded by facility fees paid by the state's existing permitted hazardous waste facilities for DTSC's oversight activities at those facilities. In August 2024, the BES voted to raise the rates for, among other things, the facility fee, to create a 5% reserve in DTSC's main funding accounts. Clean Harbors requests that any HWFA expenditures to support implementation of this bill be reimbursed by the metal shredding facilities that opt into the new regulatory program proposed by this bill.

- 3) **Prior Legislation.** SB 1234 (Allen), of the 2023-2024 Legislative Session, would have similarly established a new regulatory structure at DTSC for metal shredding facilities. SB 1234 was held on this committee's suspense file.

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