

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2791

Introduced by Assembly Member Ruskin

February 24, 2006

An act to add Article 3 (commencing with Section 43300) to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2791, as amended, Ruskin. Vehicle emissions.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution.

This bill would require the state board to develop and administer a clean vehicle discount program that would *take effect January 1, 2009*, starting with model-year 2009 *motor* vehicles, *as defined*, provide discounts to vehicles that emit low amounts of greenhouse ~~gasses~~ *gases, as defined*, and criteria pollutants, ~~as specified~~ *defined*, and would require surcharges for *motor* vehicles that emit large amounts of greenhouse ~~gasses~~ *gases* and criteria pollutants, as specified. This bill would create the Clean Vehicle ~~Incentive~~ *Discount* Account to be administered by the state board, and require that all funds collected from the surcharges be deposited into this account *and that all clean vehicle discounts be debited from the account*. Moneys

in the fund would be continuously appropriated to the state board without regard to fiscal year to fund the program.

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

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

1 SECTION 1. Article 3 (commencing with Section 43300) is
 2 added to Chapter 2 of Part 5 of Division 26 of the Health and
 3 Safety Code, to read:

4
 5 Article 3. Clean Vehicle Discount Program
 6

7 43300. The Legislature finds and declares all of the
 8 following:

9 (a) According to the State Energy Resources Conservation and
 10 Development Commission, the transportation sector is the largest
 11 source of greenhouse gas emissions in California.

12 (b) Multiple independent economic studies indicate that
 13 undertaking action to reduce greenhouse gas emissions will
 14 likely create long-term economic benefit to the state’s economy.

15 (c) While substantial progress has been made in reducing
 16 smog-forming emissions from new motor vehicles, there remain
 17 disparities in the amount of allowable emissions of criteria
 18 pollutants among the identified categories of exhaust ~~emission~~
 19 *emissions* standards for passenger vehicles and light-duty trucks
 20 sold in California.

21 (d) Monetary incentives can augment existing state vehicle
 22 ~~emission~~ *emissions* standards by encouraging automobile buyers
 23 to purchase cleaner vehicles and by encouraging manufacturers
 24 to offer more low-emitting vehicles to California consumers.

25 (e) One-time discounts on the purchase of new motor vehicles
 26 that emit lower amounts of greenhouse ~~gasses~~ *gases* are a
 27 reasonable and appropriate method to incentivize the purchase of
 28 these vehicles.

29 (f) One-time surcharges on the purchase of new motor
 30 vehicles that emit high amounts of greenhouse gases are a
 31 reasonable and appropriate method to disincentivize the purchase
 32 *and internalize the environmental cost to the public* of these
 33 vehicles.

1 ~~(g) One-time surcharges on the purchase of new motor~~
2 ~~vehicles that emit high amounts of greenhouse gases are a~~
3 ~~reasonable method to internalize the environmental cost to the~~
4 ~~public of these vehicles.~~

5 ~~(h)~~

6 (g) Recent studies authorized by the California Environmental
7 Protection Agency and the State Energy Resources Conservation
8 and Development Commission have found that the impact of
9 global warming to California residents is likely to be quite
10 severe, especially if action to curb global warming emissions is
11 not taken.

12 ~~(i)~~

13 (h) It is the intent of the Legislature in enacting this article to
14 establish a *market-based* clean vehicle incentive program
15 consisting of one-time discounts and one-time surcharges on the
16 purchase of new vehicles, to mitigate against emissions of
17 greenhouse gases and smog-forming pollutants from motor
18 vehicles.

19 ~~(j)~~

20 (i) It is the intent of the Legislature that this program be
21 self-financing and not increase expenditures from or reduce
22 revenues in the state's General Fund.

23 *43302. For purposes of this article, the following terms have*
24 *the following meanings:*

25 (a) *“Carbon dioxide equivalent” means a metric measure*
26 *used to compare the emissions from various greenhouse gases*
27 *based upon their global warming potential derived by*
28 *multiplying the tons of the gas by the associated global warming*
29 *potential.*

30 (b) *“Criteria air pollutant” means an air pollutant for which*
31 *the United States Environmental Protection Agency has issued*
32 *primary and secondary National Ambient Air Quality Standards*
33 *pursuant to Sections 108 and 109 of the Clean Air Act (42 U.S.C.*
34 *Secs. 7408 and 7409), including carbon monoxide, lead, nitrogen*
35 *oxides, ozone, particulate matter, and sulfur dioxide.*

36 (c) *“Emergency vehicle” means an “authorized emergency*
37 *vehicle” as defined in Section 165 of the Vehicle Code.*

38 (d) *“Greenhouse gases factor” means a dollar value, as*
39 *determined by the state board, assigned to carbon dioxide*
40 *equivalent emissions per mile from a motor vehicle.*

1 (e) “Greenhouse gases” means carbon dioxide,
2 hydrofluorocarbons, methane, oxides of nitrogen,
3 perfluorocarbons, and sulfur hexafluoride.

4 (f) “Motor vehicle” and “vehicle” mean a passenger vehicle,
5 light-duty truck, or any other vehicle determined by the state
6 board to be a vehicle whose primary use is noncommercial
7 personal transportation and that is subject to the regulations
8 adopted pursuant to Section 43018.5.

9 (g) “Program” means the Clean Vehicle Discount Program
10 established pursuant to this article.

11 (h) “Zero band” means that portion of a linear scale of
12 discounts and surcharges in which vehicles are assigned neither
13 a discount nor a surcharge.

14 43304. (a) No later than January 1, 2008, the state board, in
15 consultation with those other agencies that the state board
16 determines are appropriate, and after at least two public
17 workshops, shall adopt regulations to implement a clean vehicle
18 discount program.

19 (b) The regulations shall, consistent with Section 43306,
20 establish a schedule of one-time clean vehicle discounts and
21 one-time emissions surcharges for all motor vehicles, except as
22 otherwise excepted in this article.

23 (c) The schedule of discounts and surcharges shall take effect
24 January 1, 2009, and shall apply to motor vehicles beginning
25 with the 2009 model year. The schedule of discounts and
26 surcharges, as adjusted annually pursuant to subdivision (b) of
27 Section 43308, shall take effect on January 1 of each subsequent
28 year, and be applied to new vehicles of that model year.

29 (d) The state board may delay implementation of the discount
30 for up to 30 days after the surcharge initially takes effect in order
31 to ensure that adequate funds are available to fund the program
32 discounts.

33 43306. (a) The state board shall calculate the discount or
34 surcharge to be applied to any motor vehicle subject to the
35 program based on the vehicle’s emissions of greenhouse gases
36 and criteria air pollutants, compared to the emissions of all
37 vehicles of the same model year that are subject to the program.
38 The state board may adjust discounts and surcharges based upon
39 projected sales of a motor vehicle in order to ensure that the
40 program will be self-financing.

1 (b) To calculate the discount or surcharge pursuant to
2 subdivision (a), the state board shall determine the difference
3 between a motor vehicle's emissions of greenhouse gases, as
4 determined pursuant to Section 1961.1 of Title 13 of the
5 California Code of Regulations, and the average emissions of
6 greenhouse gases of all vehicles subject to the program, for a
7 given model year. The difference identified for each vehicle
8 based on emissions of greenhouse gases shall be multiplied by a
9 greenhouse gases factor, to determine the amount of the
10 surcharge or discount attributed to emissions of greenhouse
11 gases. This amount shall be adjusted to account for emissions of
12 criteria air pollutants based on the vehicle's criteria pollutant
13 certification category, as determined pursuant to Section 1961 of
14 Title 13 of the California Code of Regulations.

15 (c) Based on the calculations made pursuant to subdivision
16 (b), the state board shall assign a discount or surcharge to every
17 motor vehicle subject to the program, that reflects its relative
18 emissions of greenhouse gases and criteria air pollutants
19 compared to all vehicles for the same model year that are subject
20 to the program, and subject to the following:

21 (1) The state board shall establish a zero band that includes
22 the middle of the linear scale and includes not less than 20
23 percent, nor more than 25 percent, of the fleet of a given model
24 year. Motor vehicles that fall within the zero band shall not be
25 assigned a discount or a surcharge. The zero band shall be
26 designed and adjusted along the linear scale to ensure that
27 vehicle buyers continue to have a variety of choices among
28 multiple vehicle types, including light trucks, that are not
29 assigned a surcharge.

30 (2) The maximum discount and surcharge shall not be less
31 than two thousand dollars (\$2000), and no discount or surcharge
32 shall exceed the lesser of two thousand five hundred dollars
33 (\$2500) or the amount of the sales tax on the purchase price of
34 the motor vehicle.

35 (3) No discount or surcharge shall be less than one hundred
36 dollars (\$100). Motor vehicles that would otherwise be assigned
37 a discount or surcharge of less than one hundred dollars (\$100)
38 shall be placed in the zero band.

1 (4) The portion of a motor vehicle's discount or surcharge
2 attributable to emissions of criteria air pollutants shall not
3 exceed 20 percent.

4 (d) The state board may regularly collect from motor vehicle
5 manufacturers adequate data to calculate a vehicle's emissions
6 of greenhouse gases and criteria air pollutants. Nothing in this
7 article shall require the state board to conduct additional vehicle
8 testing to make the determinations required by this article.

9 43308. (a) The schedule of discounts and surcharges shall be
10 designed to ensure that the program will be self-financing and
11 will generate adequate revenues to do all the following:

12 (1) Fund the cost of all discounts associated with the program.

13 (2) Fund all administrative costs associated with the program.

14 (3) Provide for a reserve within the program equal to 20
15 percent of estimated discounts to ensure the Clean Vehicle
16 Discount Account will have a positive balance at the end of each
17 fiscal year.

18 (b) The state board shall make annual adjustments to the
19 surcharges and discounts based on recent and anticipated
20 changes in motor vehicle sales to ensure that the program
21 continues to generate adequate revenues to meet the
22 requirements of subdivision (a).

23 (c) The Department of Finance may at any time direct the
24 state board to adjust the schedule of discounts and surcharges so
25 that, in the department's determination, an adequate balance is
26 maintained in the Clean Vehicle Discount Account to satisfy the
27 requirements of subdivision (a). The department may direct the
28 state board to reduce or increase the size of the reserve specified
29 in paragraph (3) of subdivision (a) if it determines that the 20
30 percent reserve requirement is either excessive or inadequate to
31 ensure that the Clean Vehicle Discount Account will have a
32 balance at the end of each fiscal year.

33 (d) The state board shall, if directed by the Department of
34 Finance pursuant to subdivision (c), adjust the schedule of
35 discounts and surcharges to ensure that the Clean Vehicle
36 Discount Account maintains an adequate reserve.

37 43310. (a) The discounts and surcharges adopted by the
38 state board shall be applied at the point of sale to the price of the
39 motor vehicle after applicable taxes are added.

1 (b) The regulations adopted by the state board shall include
2 the following:

3 (1) A system for the timely reimbursement of automobile
4 dealers from the Clean Vehicle Discount Account to cover the
5 exact amount of the discounts attributed to new motor vehicles
6 sold by the dealer.

7 (2) A system for the transmittal of surcharges collected by
8 automobile dealers into the Clean Vehicle Discount Account.

9 43312. (a) Not later than August 1, 2008, the state board
10 shall make available to the public, including on the state board's
11 Internet Web site, the schedule of discounts and surcharges
12 applicable in the year following their publication. The updated
13 schedule shall be made available to the public whenever it is
14 updated.

15 (b) The state board shall disseminate information to licensed
16 automobile dealers and consumers about the program, including,
17 but not limited to, the following:

18 (1) The state board shall notify licensed automobile dealers
19 about relevant details of the program, including identifying, to
20 the extent feasible, motor vehicles that are exempt from the
21 program pursuant to Section 43316 and providing reasonable
22 assistance to help automobile dealers carry out the program.

23 (2) The state board may modify the air pollution label that is
24 required to be displayed on new motor vehicles sold in the state
25 pursuant to Section 43200.1, to include specific information on
26 the applicable clean vehicle discount or surcharge imposed
27 pursuant to this article.

28 43314. (a) Any eligible motor vehicle that is leased for a
29 term of more than 24 months shall be assessed the appropriate
30 discount or surcharge by the vehicle's leasing agent. The
31 discount or surcharge may be amortized over the life of the lease.

32 (b) A new motor vehicle purchased outside California by a
33 person who is a California resident at the time of purchase, is
34 subject to the surcharge if the resident returns to this state and
35 registers the vehicle in this state within six months of purchase, if
36 that vehicle would have otherwise been assigned a surcharge.
37 The state board shall cooperate with the Department of Motor
38 Vehicles to develop and implement procedures to collect the
39 surcharge.

1 43316. (a) Notwithstanding any other provision of this
2 article, the following motor vehicles shall be exempt from any
3 surcharges that would otherwise apply:

4 (1) Motor vehicles purchased by small businesses, as defined
5 in Section 14837 of the Government Code, for work-related
6 purposes.

7 (2) Motor vehicles purchased by the state for use in official
8 state business.

9 (3) Emergency vehicles purchased by a local agency.

10 (4) Paratransit and other motor vehicles designed or modified
11 specifically for the purpose of transporting disabled persons.

12 (5) Motor vehicles purchased by low-income residents of the
13 state, to be defined by the state board in regulations adopted
14 pursuant to this article.

15 (b) Notwithstanding any other provision of this article, motor
16 vehicles that meet both of the following conditions are exempt
17 from this article and shall be identified by the state board
18 pursuant to paragraph (1) of subdivision (b) of Section 43312:

19 (1) The motor vehicle's primary exhaust is identified by the
20 Office of Environmental Health Hazard Assessment as a
21 chemical that causes cancer.

22 (2) The motor vehicle is not subject to a state-mandated
23 inspection and maintenance program.

24 (c) If a motor vehicle is not identified as an exempt vehicle by
25 the state board pursuant to Section 43312, but the purchaser of
26 the vehicle believes the vehicle qualifies for an exemption
27 pursuant to this section, the purchaser shall pay the surcharge at
28 the time of sale as required by Section 43310, and shall submit
29 an application to the state board, pursuant to subdivision (d),
30 certifying that the vehicle qualifies for the exemption. The state
31 board shall notify the applicant within 90 days of receipt of the
32 application, of its determination of whether an exemption will be
33 granted. If the state board determines that the vehicle qualifies
34 for an exemption from the surcharge pursuant to this section, the
35 state board shall reimburse the applicant for the value of the
36 surcharge from the Clean Vehicle Discount Account.

37 (d) The state board shall prepare and make available to
38 automobile dealers and the public, including on the state board's
39 Internet Web site, an application for use by motor vehicle
40 purchasers seeking reimbursement for a surcharge paid for an

1 *exempt vehicle pursuant to subdivision (c). The application shall*
2 *provide the opportunity for the purchaser to demonstrate that a*
3 *vehicle qualifies for an exemption, specify the period of time*
4 *within which the purchaser must apply for reimbursement, and*
5 *provide a means for the applicant to challenge the state board's*
6 *finding if it determines that a vehicle does not qualify for an*
7 *exemption.*

8 ~~43301. (a) No later than January 1, 2008, the state board, in~~
9 ~~consultation with other agencies as appropriate, after at least two~~
10 ~~public workshops, shall develop regulations to implement a clean~~
11 ~~vehicle discount program.~~

12 ~~(b) The regulations shall establish a schedule of one-time~~
13 ~~vehicle discounts and surcharges for every motor vehicle eligible~~
14 ~~for inclusion as specified in Sections 43304 and 43305.~~

15 ~~(c) The regulations shall apply the discount or surcharge at the~~
16 ~~point of sale at the price of the vehicle after the relevant taxes are~~
17 ~~added. Automobile dealers shall be reimbursed to cover the exact~~
18 ~~amount of the discounts attributed to new vehicles sold at the~~
19 ~~dealership.~~

20 ~~(d) For the purposes of creating an initial buffer to help fund~~
21 ~~and administer the program, the state board may begin the first~~
22 ~~year of implementation by enacting the discount portion of the~~
23 ~~program up to 30 days after the surcharge portion of the program~~
24 ~~goes into effect.~~

25 ~~(e) Any eligible vehicle that is leased for more than 24 months~~
26 ~~shall be assessed the appropriate discount or surcharge. This~~
27 ~~discount or surcharge may be amortized over the life of the lease.~~

28 ~~(f) The state board shall communicate with licensed~~
29 ~~automobile dealers and consumers information about the~~
30 ~~program created by this article, including, but not limited to, the~~
31 ~~following:~~

32 ~~(1) The state board shall notify licensed automobile dealers~~
33 ~~about all the relevant details of the program and provide~~
34 ~~reasonable assistance in their efforts to comply with the program.~~

35 ~~(2) The state board may modify the air pollution label that is~~
36 ~~required to be displayed on new vehicles sold in the state~~
37 ~~pursuant to Section 43200.1 to include specific information on~~
38 ~~the applicable clean vehicle discount or emissions surcharge~~
39 ~~imposed pursuant to this article.~~

1 43302. ~~(a) The discount and surcharge schedule shall be~~
2 ~~based on the vehicles impact on the environment relative to the~~
3 ~~entire vehicle fleet of the same model-year, with the principal~~
4 ~~factor being tailpipe emissions of greenhouse gases.~~

5 ~~(1) The state board shall use a combination of already existing~~
6 ~~data collected by the state board of greenhouse gas emissions and~~
7 ~~criteria pollutant emissions.~~

8 ~~(2) The state board may include all greenhouse gases, as~~
9 ~~defined in Section 42801.1.~~

10 ~~(3) The state board shall not be required to conduct new~~
11 ~~testing to implement the program described in this article.~~

12 ~~(b) The amounts of the discount or surcharge shall be~~
13 ~~calculated by using a continuous linear schedule as follows:~~

14 ~~(1) The amount of the discount or surcharge shall be~~
15 ~~calculated by multiplying a linear rate, in grams of carbon~~
16 ~~dioxide equivalent per mile (\$/g CO₂-eq/mi) by the difference~~
17 ~~between a vehicle's greenhouse gas emissions and a pivot point~~
18 ~~set to achieve revenue balance and otherwise be consistent with~~
19 ~~this article.~~

20 ~~(2) The discount or surcharge calculated pursuant to paragraph~~
21 ~~(1) shall be adjusted based on the vehicle's criteria pollutant~~
22 ~~emission certification. The state board shall develop a~~
23 ~~methodology to determine this adjustment to ensure that, on~~
24 ~~average over the entire fleet, the criteria pollutant component is~~
25 ~~no greater than 20 percent of the average discount or surcharge.~~

26 ~~(A) The schedule of adjustments created pursuant to this~~
27 ~~paragraph may be modified periodically by the state board to~~
28 ~~reflect changes in emission standard categories as they relate to~~
29 ~~criteria pollutant emissions or any relevant nonmethane organic~~
30 ~~gas (NMOG) standard.~~

31 ~~(B) The schedule of adjustments created pursuant to this~~
32 ~~paragraph may be modified if the low-emission vehicle (LEV)~~
33 ~~standards are modified by the state board.~~

34 ~~(3) The linear scale shall be set so that the largest discount and~~
35 ~~largest surcharge is at least two thousand dollars (\$2,000).~~

36 ~~(c) The state board shall create a zero-band that encompasses~~
37 ~~vehicles that are assigned neither a surcharge or a discount.~~

38 ~~(1) This zero-band shall include between 20 and 25 percent of~~
39 ~~the fleet of a given model.~~

1 ~~(2) The placement of the zero-band shall be adjusted to ensure~~
2 ~~that vehicle buyers continue to have a variety of vehicles among~~
3 ~~various types that are not assigned a surcharge.~~

4 ~~(d) No surcharge or discount shall be less than one hundred~~
5 ~~dollars (\$100). Vehicles that would have otherwise been assigned~~
6 ~~a discount or surcharge of less than one hundred dollars (\$100)~~
7 ~~shall become part of the zero-band category.~~

8 ~~(e) No final surcharge or discount to the consumer shall~~
9 ~~exceed either of the following:~~

10 ~~(1) Two thousand five hundred dollars (\$2,500).~~

11 ~~(2) The amount of the sales tax on the purchase price of the~~
12 ~~vehicle.~~

13 ~~(f) The state board shall make appropriate adjustments~~
14 ~~annually to the surcharges and discounts based on recent and~~
15 ~~anticipated changes in motor vehicle sales, and to ensure that~~
16 ~~funds collected through one-time surcharges are sufficient to~~
17 ~~cover the cost of implementing the clean vehicle discount~~
18 ~~program, inclusive of any administrative costs relative to the~~
19 ~~implementation of the program incurred by any state agency.~~

20 ~~43303.~~

21 ~~43318.~~ (a) The Clean Vehicle ~~Incentive~~ *Discount* Account is
22 hereby created to be administered by the state board. *All funds*
23 *derived from emissions surcharges shall be credited to the*
24 *account. All clean vehicle discounts shall be debited from the*
25 *account.* Moneys in the fund are continuously appropriated to the
26 state board without regard to fiscal year to fund the clean vehicle
27 discounts provided pursuant to this article and to otherwise
28 administer the program established by this article.

29 (b) The funds collected under this article from surcharges shall
30 be deposited into the Clean Vehicle ~~Incentive~~ *Discount* Account.

31 (c) Any expenses related to the implementation of this article
32 that are paid from the General Fund shall be repaid with interest
33 from the Clean Vehicle Discount Account.

34 (d) The state board may contract with the Board of
35 Equalization to perform its responsibilities under this article.

36 ~~43304.~~ ~~(a) Except as otherwise provided, all passenger~~
37 ~~vehicles and light-duty trucks that are subject to regulation~~
38 ~~pursuant to Section 43018.5 shall be subject to the clean vehicle~~
39 ~~discount program.~~

1 ~~(b) The clean vehicle discount program shall apply to~~
2 ~~model-year 2009 vehicles and all subsequent model-year~~
3 ~~vehicles.~~
4 ~~(c) New vehicles purchased in another state by anyone who is~~
5 ~~a California resident at the time of purchase are subject to the~~
6 ~~surcharge when and if the resident returns to this state and~~
7 ~~registers the vehicle in this state within six months of purchase, if~~
8 ~~that vehicle would have otherwise been assigned a surcharge.~~
9 ~~The state board shall cooperate with the Department of Motor~~
10 ~~Vehicles to develop and implement procedures to collect the~~
11 ~~surcharge.~~
12 ~~43305. The following exemptions apply to this article:~~
13 ~~(a) Vehicles purchased by small businesses, as defined in~~
14 ~~Section 14837 of the Government Code, for work-related~~
15 ~~purposes.~~
16 ~~(b) Vehicles that are purchased by the state for use in official~~
17 ~~state business shall be exempt from the surcharge, but not the~~
18 ~~discount portion of the program.~~
19 ~~(c) Emergency vehicles purchased by any local agency.~~
20 ~~(d) The state board and the Department of Motor Vehicles~~
21 ~~shall work together to create an exemption for large vehicles that~~
22 ~~are used primarily for the transport of disabled persons, including~~
23 ~~the option of only exempting these vehicles from the surcharge~~
24 ~~portion of the program.~~