
Introduced by Senator Lowenthal

February 22, 2005

An act to amend Section 40720 of the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 761, as introduced, Lowenthal. Air resources: Marine terminals.

(1) Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to enter the terminal, among other requirements. Existing law provides for exemptions from that requirement if the marine terminal provides fully staffed receiving and delivery gates for specified amounts of time. Existing law specifies that if a marine terminal implements a scheduling or appointment system, as provided, the terminal shall only be subject to a fine for a truck that makes use of the system and that idles or queues for more than 30 minutes, as provided.

This bill would additionally require each marine terminal in the state to operate in a manner that does not cause trucks to exceed a turn time, as defined, of 60 minutes while conducting business at a marine terminal, and would eliminate specified exemptions for marine terminals meeting certain operational requirements. This bill would also require each marine terminal to implement a scheduling or appointment system for trucks to enter the terminal, as provided.

(2) The bill would make certain findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 40720 of the Health and Safety Code is
2 amended to read:

3 40720. (a) Each marine terminal in the state shall operate in a
4 manner that does not cause trucks to idle or queue for more than
5 30 minutes while waiting to enter the gate into the marine
6 terminal, and that does not cause trucks to exceed a turn time of
7 60 minutes while conducting business at the marine terminal.

8 (1) Any owner or operator of a marine terminal that operates
9 in violation of this subdivision is subject to a two hundred fifty
10 dollar (\$250) fine per vehicle per violation.

11 (2) Marine terminals in the state shall be monitored by the
12 district with jurisdiction over that terminal to ensure compliance
13 with this subdivision.

14 (3) Citations for violations of this subdivision shall be issued
15 by the applicable district, and shall include the truck license plate
16 number or other unique identifier, which may include, but is not
17 limited to, the cargo container number, the name of the marine
18 terminal and port at which the violation occurred, and the date
19 and time of the violation.

20 (4) Any action taken by the marine terminal to assess, or seek
21 reimbursement from, the driver or owner of a truck for a
22 violation of this subdivision shall constitute a violation of Article
23 3 (commencing with Section 42400) of Chapter 4 of Part 4.

24 (5) Any owner or operator of a marine terminal or port, or any
25 agent thereof, who takes any action intended to avoid or
26 circumvent the requirements of this subdivision or to avoid or
27 circumvent the reduction of emissions of particulate matter from
28 idling or queuing trucks is subject to a seven hundred fifty dollar
29 (\$750) fine per vehicle per violation, including, but not limited
30 to, either of the following actions:

1 (A) Diverting an idling or queuing truck to area freeways or
2 alternate staging areas, including, but not limited to, requiring a
3 truck to idle or queue inside the gate of a marine terminal.

4 (B) Requiring or directing a truckdriver to turn on and off an
5 engine on a truck while that truck is idling or queuing.

6 (6) The owner or operator of a marine terminal does not
7 violate this subdivision by causing a truck to idle or queue for
8 more than 30 minutes while waiting to enter the gate into the
9 marine terminal, if the delay is caused by acts of God, strikes, or
10 declared state and federal emergencies, or if the district finds that
11 an unavoidable or unforeseeable event caused a truck to idle or
12 queue and that the terminal is in good faith compliance with this
13 section.

14 (7) Failure to pay a fine imposed pursuant to paragraph (1) or
15 (5) shall constitute a violation of Article 3 (commencing with
16 Section 42400) of Chapter 4 of Part 4.

17 (8) *For the purposes of this subdivision, “turn time” means the*
18 *amount of time spent at the marine terminal from the time a truck*
19 *enters the first gate or the queue of the marine terminal until the*
20 *time the truck leaves the exit gate at the marine terminal.*

21 ~~(b) (1) Subdivision (a) does not apply to any marine terminal~~
22 ~~that provides, as determined by the district, two continuous hours~~
23 ~~of uninterrupted, fully staffed receiving and delivery gates two~~
24 ~~hours prior to and after, peak commuter hours each day, at least~~
25 ~~five days per week.~~

26 ~~(2) For the purposes of this subdivision, “peak commuter~~
27 ~~hours” shall be those hours determined by the district, in~~
28 ~~consultation with the owners and operators of the marine~~
29 ~~terminals within the jurisdiction of each district and any labor~~
30 ~~union that is represented at those marine terminals. The district~~
31 ~~shall notify the marine terminals of the final determination of the~~
32 ~~peak commuter hours.~~

33 ~~(e) Subdivision (a) does not apply to any marine terminal that~~
34 ~~operates fully staffed receiving and delivery gates for 65 hours,~~
35 ~~five days per week, if that marine terminal is located at a port~~
36 ~~that processes less than 3 million containers (20-foot equivalent~~
37 ~~units (TEUs)) annually.~~

38 ~~(d) Subdivision (a) does not apply to any marine terminal that~~
39 ~~operates fully staffed receiving and delivery gates for 70 hours,~~
40 ~~five days per week, if that marine terminal is located at a port~~

1 that processes more than 3 million containers (20-foot equivalent
2 units (TEUs)) annually.

3 ~~(e)~~

4 (c) The district shall determine the necessary level of
5 monitoring and enforcement commensurate with the level of the
6 truck idling or queuing problem existing within its jurisdiction.
7 *The district may seek reimbursement for monitoring and*
8 *enforcement costs from the marine terminals within its*
9 *jurisdiction.*

10 ~~(f)~~

11 (d) For the purposes of this section, “marine terminal” means
12 a facility that meets all of the following criteria:

13 (1) Is located at a bay or harbor.

14 (2) Is primarily used for loading or unloading containerized
15 cargo onto or off of a ship or marine vessel.

16 (3) Contains one or more of the following:

17 (A) Piers.

18 (B) Wharves.

19 (C) Slips.

20 (D) Berths.

21 (E) Quays.

22 (4) Is located at a port that processes 100,000 or more
23 containers (20-foot equivalent units (TEUs)) annually.

24 ~~(g)~~

25 ~~(e) Notwithstanding paragraph (1) of subdivision (a), if a~~
26 ~~marine terminal implements a scheduling or appointment system~~
27 ~~for trucks to enter the terminal, the terminal shall be subject to a~~
28 ~~fine pursuant to subdivision (a) only for a truck that makes use of~~
29 ~~the system and that idles or queues for more than 30 minutes~~
30 ~~while waiting to enter the gate into the terminal, commencing~~
31 ~~from the start of the appointment or the time the truck arrives,~~
32 ~~whichever is later. The~~ *Each marine terminal shall implement a*
33 *scheduling or appointment system for trucks to enter the terminal*
34 *that shall meet all of the following requirements:*

35 (1) Provide appointments on a first-come-first-served basis.

36 (2) Provide appointments that last at least 60 minutes and are
37 continuously staggered throughout the day.

38 (3) Not discriminate against any motor carrier that conducts
39 transactions at the marine terminal in scheduling appointments.

1 (4) Not interfere with a double transaction once inside the
2 gate.

3 (5) Not turn away or fine a motor carrier if that motor carrier
4 misses an appointment.

5 (6) *Provide appointments for empty carriers.*

6 (7) *Require all motor carriers conducting business at the Port*
7 *of Los Angeles and the Port of Long Beach to use an*
8 *appointment while conducting business at those ports.*

9 SEC. 2. The Legislature finds and declare that due to the
10 unique circumstances relating to air quality in the communities
11 surrounding ports in the Bay Area Air Quality Management
12 District and the South Coast Air Quality Management District, a
13 statute of general applicability cannot be enacted within the
14 meaning of subdivision (b) of Section 16 of Article IV of the
15 California Constitution.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of
21 Section 17556 of the Government Code.