

**ASSEMBLY BILL**

**No. 233**

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**Introduced by Assembly Member Jones**

January 30, 2007

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An act to amend Sections 39674, 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, and 42402.4 of, and to add Sections 39604.3, 42400.3.7, 42400.9, 42402.4.5, and 42402.6 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 233, as introduced, Jones. Air pollution: Children's Breathing Rights Act: penalties.

(1) Existing law vests local and regional authorities, defined as the governing body of any city, county, or air pollution control district or air quality management district, with the primary responsibility for control of air pollution from all sources other than vehicular sources. Existing law establishes maximum criminal and civil penalties for any person, as defined, for violations of air pollution laws from nonvehicular sources.

This bill would enact the Children's Breathing Rights Act, which would increase the maximum penalties for specified violations of air pollution laws. The bill would enact criminal and civil penalties for additional specified violations of air pollution laws that result in substantial risk of actual injury, and for making certain false statements, representations, or certifications. The bill would also require the State Air Resources Board to post on its Internet Web site certain information on air quality violations, which the bill would require the districts to report to the state board, and would require the districts to jointly develop with the state board a format for presenting this information.

Because this bill would impose new duties on local air districts, this bill would create a state-mandated local program.

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. This act shall be known, and may be cited, as the  
2 Children’s Breathing Rights Act.

3 SEC. 2. (a) The Legislature finds and declares all of the  
4 following:

5 (1) Breathing clean and healthy air is a right of all Californians,  
6 especially our children, whose health suffers disproportionately  
7 when our air is polluted.

8 (2) Reduced lung growth and function, new asthma cases,  
9 respiratory complications for asthmatics, and increased school  
10 absences from respiratory illnesses are just some of the  
11 consequences our children face if we fail to protect that right.

12 (3) The most recent available state and federal data reveal that  
13 more than 245 million pounds of industrial air pollution were  
14 emitted near California schools in 1995. Statewide, more than 2.8  
15 million children were enrolled in schools located near reported air  
16 emissions of carcinogens, reproductive toxins, heavy metals,  
17 nitrogen oxides, sulfur dioxide, or particulate matter.

18 (4) If we improve the statutes governing violations of our air  
19 quality laws and ensure that adequate penalties are available to  
20 deter even the most serious air pollution violations, our children’s  
21 right to clean and healthy air can be better protected, as can the  
22 right to environmental justice provided in Section 65040.12 of the  
23 Government Code, that is, the fair treatment of people of all races,  
24 cultures, and income with respect to the enforcement of  
25 environmental laws, regulations, and policies. If we improve the

1 enforcement of our air quality laws, we will avoid future economic  
2 and social costs of air pollution.

3 (b) It is the intent of the Legislature in the enactment of this act  
4 to improve compliance with air quality laws, to increase penalties  
5 for serious violators of air pollution laws and to use enhanced  
6 penalties to improve air pollution enforcement activities, and to  
7 create a statewide database that would provide transparency  
8 regarding violations, including serious violations.

9 SEC. 3. Section 39604.3 is added to the Health and Safety  
10 Code, to read:

11 39604.3. (a) (1) Notwithstanding Section 39604, the state  
12 board shall post on its Internet Web site, by January 1, 2009, and  
13 by January 1 of each year thereafter, the same information on air  
14 quality violations that the districts provide to the United States  
15 Environmental Protection Agency. The state board shall also  
16 provide a link on its Internet Web site to the Internet Web sites of  
17 the districts. To protect confidentiality, the state board may require  
18 a password for certain areas of its Internet Web site.

19 (2) Each district shall submit the information described in  
20 paragraph (1) to the state board, and the state board and the districts  
21 shall jointly develop a format for presenting this information. The  
22 format shall ensure that the data is presented in an open and  
23 transparent manner that is, to the greatest extent possible, readily  
24 accessible to, and understandable by, the public and compatible  
25 with enforcement data provided by other state environmental  
26 agencies.

27 (b) (1) Commencing January 1, 2009, every judgment entered  
28 in an action brought by a district and every final settlement  
29 agreement entered into by a district to enforce any provision of  
30 law that is administered by the district shall be posted on the  
31 district's Internet Web site, if the judgment or settlement agreement  
32 is in the public record.

33 (2) Paragraph (1) shall apply only to districts with a population  
34 greater than 1,000,000. A district with a population of less than  
35 1,000,000 that maintains an Internet Web site shall either comply  
36 with paragraph (1) or post a statement on its Internet Web site  
37 informing the public how to request information in the public  
38 record regarding judgments and settlement agreements.

1 (3) For the purposes of this subdivision, a judgment or settlement  
2 agreement is final when the time for judicial review has expired,  
3 or when all means of judicial review have been exhausted.

4 (4) A judgment or settlement agreement posted pursuant to this  
5 subdivision shall be posted for not less than one year.

6 SEC. 4. Section 39674 of the Health and Safety Code is  
7 amended to read:

8 39674. (a) Except as otherwise provided in subdivision (b),  
9 any person who violates any rule or regulation, emission limitation,  
10 or permit condition adopted pursuant to Section 39659 or Article  
11 4 (commencing with Section 39665) or which is implemented and  
12 enforced as authorized by subdivision (b) of Section 39658 is  
13 strictly liable for a civil penalty not to exceed ~~one thousand dollars~~  
14 ~~(\$1,000)~~ *ten thousand dollars (\$10,000)* for each day ~~in~~ *during*  
15 *any portion of* which the violation occurs.

16 (b) (1) Any person who violates any rule or regulation, emission  
17 limitation, permit condition, order fee requirement, filing  
18 requirement, duty to allow or carry out inspection or monitoring  
19 activities, or duty to allow entry for which delegation or approval  
20 of implementation and enforcement authority has been obtained  
21 pursuant to subdivision (l) of Section 112 of the Clean Air Act (42  
22 U.S.C. ~~Section~~ *Sec. 7412(l)*) or the regulations adopted pursuant  
23 thereto, adopted pursuant to Section 39659 or Article 4  
24 (commencing with Section 39665) or which is implemented and  
25 enforced as authorized by subdivision (b) of Section 39658 is  
26 strictly liable for a civil penalty not to exceed ~~ten thousand dollars~~  
27 ~~(\$10,000)~~ *fifty thousand dollars (\$50,000)* for each day ~~in~~ *during*  
28 *any portion of* which the violation occurs.

29 (2) Where a civil penalty in excess of ~~one thousand dollars~~  
30 ~~(\$1,000)~~ *five thousand dollars (\$5,000)* for each day of violation  
31 is sought, there is no liability under *subdivision (a) or paragraph*  
32 *(1) for an amount above five thousand dollars (\$5,000) for each*  
33 *day during any portion of which a violation occurs*, if the person  
34 accused of the violation alleges by affirmative defense and  
35 establishes that the violation is caused by an act ~~which~~ *that was*  
36 not the result of intentional or negligent conduct. In a district in  
37 which a Title V permit program has been fully approved, this  
38 paragraph shall not apply to a violation of federally enforceable  
39 requirements that occur at a Title V source.

1 (3) Paragraph (2) shall not apply to a violation of a toxic air  
2 contaminant rule, regulation, permit, order, fee requirement, filing  
3 requirement, duty to allow or carry out inspection or monitoring  
4 activities, or duty to allow entry for which delegation or approval  
5 of implementation and enforcement authority has been obtained  
6 pursuant to subdivision (l) of Section 112 of the Clean Air Act (~~42~~  
7 ~~U.S.C. Sec. 7412(l)~~), or the regulations adopted pursuant thereto.

8 SEC. 5. Section 42400 of the Health and Safety Code is  
9 amended to read:

10 42400. (a) Except as otherwise provided in Section 42400.1,  
11 42400.2, 42400.3, 42400.3.5, or 42400.4, any person who violates  
12 this part, or any rule, regulation, permit, or order of the state board  
13 or of a district, including a district hearing board, adopted pursuant  
14 to Part 1 (commencing with Section 39000) to Part 4 (commencing  
15 with Section 41500), inclusive, is guilty of a misdemeanor and is  
16 subject to a fine of not more than ~~one thousand dollars (\$1,000)~~  
17 *ten thousand dollars (\$10,000)* or imprisonment in the county jail  
18 for not more than six months, or both.

19 (b) If a violation under subdivision (a) with regard to the failure  
20 to operate a vapor recovery system on a gasoline cargo tank is  
21 directly caused by the actions of an employee under the supervision  
22 of, or of any independent contractor working for, any person  
23 subject to this part, the employee or independent contractor, as the  
24 case may be, causing the violation is guilty of a misdemeanor and  
25 is punishable as provided in subdivision (a). That liability shall  
26 not extend to the person employing the employee or retaining the  
27 independent contractor, unless that person is separately guilty of  
28 an action that violates this part.

29 (c) *Any person who owns or operates any source of air*  
30 *contaminants in violation of Section 41700 that causes a*  
31 *substantial risk of actual injury, as defined in subdivision (e), to*  
32 *another person, whether the risk of injury is immediate or in the*  
33 *future, is guilty of a misdemeanor and is subject to a fine of not*  
34 *more than twenty-five thousand dollars (\$25,000) or imprisonment*  
35 *in the county jail for not more than nine months or both.*

36 (e)

37 (d) Any person who owns or operates any source of air  
38 contaminants in violation of Section 41700 that causes actual  
39 injury, as defined in subdivision ~~(d)~~ (e), ~~to the health or safety of~~  
40 ~~a considerable number of persons or the public~~ *another person*, is

1 guilty of a misdemeanor and is subject to a fine of not more than  
 2 ~~fifteen thousand dollars (\$15,000)~~ *fifty thousand dollars (\$50,000)*  
 3 or imprisonment in the county jail for not more than nine months,  
 4 or both.

5 ~~(d)~~

6 *(e)* As used in this section, “actual injury” means any physical  
 7 injury that, in the opinion of a licensed physician and surgeon,  
 8 requires medical treatment involving more than a physical  
 9 examination.

10 ~~(e)~~

11 *(f)* Each day during any portion of which a violation of  
 12 subdivision ~~(a)–(c)~~, *(c)*, or *(d)* occurs is a separate offense.

13 SEC. 6. Section 42400.1 of the Health and Safety Code is  
 14 amended to read:

15 42400.1. *(a)* Any person who negligently emits an air  
 16 contaminant in violation of any provision of this part or any rule,  
 17 regulation, permit, or order of the state board or of a district  
 18 pertaining to emission regulations or limitations is guilty of a  
 19 misdemeanor and is punishable by a fine of not more than  
 20 twenty-five thousand dollars (\$25,000), or imprisonment in a  
 21 county jail for not more than nine months, ~~or by both that fine and~~  
 22 ~~imprisonment.~~

23 *(b)* Any person who negligently emits an air contaminant in  
 24 violation of Section 41700 that causes a substantial risk of actual  
 25 injury, as defined in subdivision *(e)* of Section 42400, to another  
 26 person, whether the risk of injury is immediate or in the future, is  
 27 guilty of a misdemeanor and is punishable by a fine of not more  
 28 than fifty thousand dollars (\$50,000) or imprisonment in the county  
 29 jail for not more than nine months, or both.

30 *(c)* Any person who negligently emits an air contaminant in  
 31 violation of Section 41700 that causes actual injury, as defined in  
 32 subdivision *(e)* of Section 42400, to another person, is guilty of a  
 33 misdemeanor and is punishable by a fine of not more than  
 34 seventy-five thousand dollars (\$75,000) or imprisonment in the  
 35 county jail for not more than nine months, or both.

36 ~~(b)~~

37 *(d)* Any person who negligently emits an air contaminant in  
 38 violation of Section 41700 that causes great bodily injury, as  
 39 defined by Section 12022.7 of the Penal Code, to, or death of, any  
 40 person, is guilty of a misdemeanor and is punishable by a fine of

1 not more than one hundred thousand dollars (\$100,000), or  
2 imprisonment in a county jail for not more than one year, or ~~by~~  
3 ~~both that fine and imprisonment.~~

4 (e)

5 (e) Each day during any portion of which a violation occurs is  
6 a separate offense.

7 SEC. 7. Section 42400.2 of the Health and Safety Code is  
8 amended to read:

9 42400.2. (a) Any person who emits an air contaminant in  
10 violation of any provision of this part, or any order, rule, regulation,  
11 or permit of the state board or of a district pertaining to emission  
12 regulations or limitations, and who knew of the emission and failed  
13 to take corrective action within a reasonable period of time under  
14 the circumstances, is guilty of a misdemeanor and is punishable  
15 by a fine of not more than forty thousand dollars (\$40,000), or  
16 imprisonment in a county jail for not more than one year, or ~~by~~  
17 ~~both that fine and imprisonment.~~

18 (b) For purposes of this section, “corrective action” means the  
19 termination of the emission violation or the grant of a variance  
20 from the applicable order, rule, regulation, or permit pursuant to  
21 Article 2 (commencing with Section 42350). If a district regulation  
22 regarding process upsets or equipment breakdowns would allow  
23 continued operation of equipment which is emitting air  
24 contaminants in excess of allowable limits, compliance with that  
25 regulation is deemed to be corrective action.

26 (c) *Any person who owns or operates any source of air*  
27 *contaminants in violation of Section 41700 that causes a*  
28 *substantial risk of actual injury, as defined in subdivision (e) of*  
29 *Section 42400, to another person, whether the risk of injury is*  
30 *immediate or in the future, and who knew of the discharge and*  
31 *failed to take corrective action within a reasonable period of time*  
32 *under the circumstances, is guilty of a misdemeanor and is subject*  
33 *to a fine of not more than seventy-five thousand dollars (\$75,000),*  
34 *or imprisonment in the county jail for not more than nine months,*  
35 *or both.*

36 (d) *Any person who owns or operates any source of air*  
37 *contaminants in violation of Section 41700 that causes actual*  
38 *injury, as defined in subdivision (e) of Section 42400, to another*  
39 *person, and who knew of the discharge and failed to take corrective*  
40 *action within a reasonable period of time under the circumstances,*

1 *is guilty of a misdemeanor and is subject to a fine of not more than*  
 2 *one hundred thousand dollars (\$100,000), or imprisonment in the*  
 3 *county jail for not more than nine months, or both.*

4 ~~(e)~~

5 (e) Any person who owns or operates any source of air  
 6 contaminants in violation of Section 41700 that causes great bodily  
 7 injury, as defined by Section 12022.7 of the Penal Code, to, or  
 8 death of, any person, and who knew of the emission and failed to  
 9 take corrective action within a reasonable period of time under the  
 10 circumstances, is guilty of a misdemeanor and is punishable by a  
 11 fine of not more than two hundred fifty thousand dollars  
 12 (\$250,000), or imprisonment in a county jail for not more than one  
 13 year, or ~~by both that fine and imprisonment.~~

14 ~~(d)~~

15 (f) Each day during any portion of which a violation occurs  
 16 constitutes a separate offense.

17 SEC. 8. Section 42400.3 of the Health and Safety Code is  
 18 amended to read:

19 42400.3. (a) Any person who willfully and intentionally emits  
 20 an air contaminant in violation of any provision of this part or any  
 21 rule, regulation, permit, or order of the state board or of a district,  
 22 pertaining to emission regulations or limitations, is guilty of a  
 23 misdemeanor and is punishable by a fine of not more than  
 24 seventy-five thousand dollars (\$75,000), or imprisonment in a  
 25 county jail for not more than one year, or ~~by both that fine and~~  
 26 ~~imprisonment.~~

27 (b) Any person who willfully and intentionally, or with reckless  
 28 disregard for the risk of causing actual injury, as defined in  
 29 subdivision (e) of Section 42400, emits an air contaminant in  
 30 violation of Section 41700 that causes a substantial risk of actual  
 31 injury to another person, whether the risk of injury is immediate  
 32 or in the future, is guilty of a misdemeanor and is punishable by  
 33 a fine of not more than one hundred thousand dollars (\$100,000),  
 34 or imprisonment in a county jail for not more than one year, or  
 35 both.

36 (c) Any person who willfully and intentionally, or with reckless  
 37 disregard for the risk of causing actual injury, as defined in  
 38 subdivision (e) of Section 42400, emits an air contaminant in  
 39 violation of Section 41700 that causes actual injury to another  
 40 person, is guilty of a misdemeanor and is punishable by a fine of

1 *not more than one hundred twenty-five thousand dollars*  
2 *(\$125,000), or imprisonment in a county jail for not more than*  
3 *one year, or both. However, if the defendant is a corporation, the*  
4 *maximum fine is two hundred fifty thousand dollars (\$250,000).*

5 (b)

6 (d) Any person who willfully and intentionally, or with reckless  
7 disregard for the risk of great bodily injury, as defined by Section  
8 12022.7 of the Penal Code, to, or death of, any person, emits an  
9 air contaminant in violation of Section 41700 that results in any  
10 unreasonable risk of great bodily injury to, or death of, any person,  
11 is guilty of a public offense and is punishable by a fine of not more  
12 ~~than one hundred twenty-five thousand dollars (\$125,000)~~ *one*  
13 *hundred fifty thousand dollars (\$150,000), or imprisonment in a*  
14 *county jail for not more than one year, or by both that fine and*  
15 ~~imprisonment.~~ However, if the defendant is a corporation, the  
16 maximum fine ~~may be up to~~ *is* five hundred thousand dollars  
17 (\$500,000).

18 (e)

19 (e) Any person who willfully and intentionally, or with reckless  
20 disregard for the risk of great bodily injury, as defined by Section  
21 12022.7 of the Penal Code, to, or death of, any person emits an air  
22 contaminant in violation of Section 41700 that causes great bodily  
23 injury to, or death of, any person is guilty of a public offense, and  
24 is punishable by a fine of not more than ~~two hundred fifty thousand~~  
25 ~~dollars (\$250,000)~~ *five hundred thousand dollars (\$500,000), or*  
26 *imprisonment in a county jail for not more than one year, or both*  
27 *that fine and imprisonment, or is punishable by a fine of not more*  
28 *than two hundred fifty thousand dollars (\$250,000) five hundred*  
29 *thousand dollars (\$500,000), or imprisonment in the state prison,*  
30 *or by both that fine and imprisonment. If the defendant is a*  
31 *corporation, the maximum fine may be up to is one million dollars*  
32 *(\$1,000,000).*

33 (f)

34 (f) Each day during any portion of which a violation occurs  
35 constitutes a separate offense.

36 (g)

37 (g) This section does not preclude punishment under Section  
38 189 or 192 of the Penal Code or any other provision of law that  
39 provides a more severe punishment.

40 (h)

1 (h) For the purposes of this section:

2 (1) “Great bodily injury” means great bodily injury as defined  
3 by Section 12022.7 of the Penal Code.

4 (2) “Imprisonment in state prison” means imprisonment in the  
5 state prison for 16 months, or two or three years.

6 (3) “Unreasonable risk of great bodily injury or death” means  
7 substantial probability of great bodily injury or death.

8 SEC. 9. Section 42400.3.5 of the Health and Safety Code is  
9 amended to read:

10 42400.3.5. ~~(a)~~ Any person who knowingly violates any rule,  
11 regulation, permit, order, fee requirement, or filing requirement  
12 of the state board or of a district, including a district hearing board,  
13 that is adopted for the control of toxic air contaminants pursuant  
14 to Part 1 (commencing with Section 39000) to Part 4 (commencing  
15 with Section 41500), inclusive, and for which delegation or  
16 approval of implementation and enforcement authority has been  
17 obtained pursuant to subdivision (l) of Section 112 of the Clean  
18 Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted  
19 pursuant thereto, is guilty of a misdemeanor and is subject to a  
20 fine of not more than ten thousand dollars (\$10,000) or  
21 imprisonment in the county jail for not more than six months, or  
22 both.

23 ~~(b) Any person who knowingly makes any false material~~  
24 ~~statement, representation, or certification in any form or in any~~  
25 ~~notice or report required by a rule or regulation adopted or permit~~  
26 ~~issued for the control of toxic air contaminants pursuant to Part 1~~  
27 ~~(commencing with Section 39000) to Part 4 (commencing with~~  
28 ~~Section 41500), inclusive, and for which delegation or approval~~  
29 ~~of implementation and enforcement authority has been obtained~~  
30 ~~pursuant to subdivision (l) of Section 112 of the Clean Air Act (42~~  
31 ~~U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto,~~  
32 ~~or who knowingly renders inaccurate any monitoring device~~  
33 ~~required by that toxic air contaminant rule, regulation, or permit~~  
34 ~~is subject to a fine of not more than thirty-five thousand dollars~~  
35 ~~(\$35,000) or imprisonment in the county jail for not more than~~  
36 ~~nine months, or both.~~

37 ~~(c) Any person who, knowingly and with intent to deceive,~~  
38 ~~falsifies any document required to be kept pursuant to any provision~~  
39 ~~of this part, or any rule, regulation, permit, notice to comply, or~~

1 order of the state board or of a district, is punishable as provided  
2 in subdivision (b).

3 ~~(d) Subdivisions (a) and (b) shall apply only to those violations~~  
4 ~~that are not otherwise subject to a fine of ten thousand dollars~~  
5 ~~(\$10,000) or more pursuant to Section 42400.1, 42400.2, or~~  
6 ~~42400.3.~~

7 SEC. 10. Section 42400.3.7 is added to the Health and Safety  
8 Code, to read:

9 42400.3.7. (a) Any person who knowingly makes any false  
10 material statement, representation, or certification in any form,  
11 notice, or report required to be kept pursuant to any provision of  
12 this part, or any rule, regulation, permit, or order of the state board  
13 or of a district, including a district hearing board, or who knowingly  
14 renders inaccurate any monitoring device required by any such  
15 rule, regulation, permit, or order, is subject to a fine of not more  
16 than fifty thousand dollars (\$50,000) or imprisonment in the county  
17 jail for not more than nine months, or both.

18 (b) Any person who knowingly and with intent to deceive makes  
19 any false material statement, representation, or certification in any  
20 form, notice, or report required to be kept pursuant to any provision  
21 of this part, or any rule, regulation, permit, or order of the state  
22 board or of a district, including a district hearing board, or who  
23 knowingly and with intent to deceive renders inaccurate any  
24 monitoring device required by any such rule, regulation, permit,  
25 or order, is subject to a fine of not more than one hundred thousand  
26 dollars (\$100,000) or imprisonment in the county jail for not more  
27 than one year, or both.

28 (c) Nothing in this section shall preclude prosecution under any  
29 other law.

30 SEC. 11. Section 42400.6 of the Health and Safety Code is  
31 amended to read:

32 42400.6. A fine or monetary penalty specified in Section 39674;  
33 ~~subdivision (a), (b), (d), or (e) of, subdivisions (a) and (b) of~~  
34 ~~Section 42400;, Section 42402;, or subdivision (a) of Section 44381~~  
35 of this code, that may be imposed as the result of conduct that is  
36 also subject to Chapter 5 (commencing with Section 17200) of  
37 Part 2 of Division 7 of the Business and Professions Code, may  
38 be collected either under those provisions of this code, or under  
39 that chapter of the Business and Professions Code, but not under  
40 both.

1 SEC. 12. Section 42400.9 is added to the Health and Safety  
 2 Code, to read:

3 42400.9. An act or omission that is criminally punishable in  
 4 different ways by different provisions of this article shall be  
 5 punished under the provision that provides for the highest  
 6 maximum penalty and shall not be punished criminally under more  
 7 than one provision.

8 SEC. 13. Section 42401 of the Health and Safety Code is  
 9 amended to read:

10 42401. ~~Any~~ *Except as otherwise provided in subdivision (b)*  
 11 *of Section 42402, any person who intentionally or negligently*  
 12 *violates any order of abatement issued by a district pursuant to*  
 13 *Section 42450, by a hearing board pursuant to Section 42451, or*  
 14 *by the state board pursuant to Section 41505 is liable for a civil*  
 15 *penalty of not more than twenty-five thousand dollars (\$25,000)*  
 16 *for each day in which the violation occurs.*

17 SEC. 14. Section 42402 of the Health and Safety Code is  
 18 amended to read:

19 42402. (a) Except as provided in Sections 42402.1, 42402.2,  
 20 42402.3, and 42402.4, any person who violates this part, any order  
 21 issued pursuant to Section 42316, or any rule, regulation, permit,  
 22 or order of a district, including a district hearing board, or of the  
 23 state board issued pursuant to Part 1 (commencing with Section  
 24 39000) to Part 4 (commencing with Section 41500), inclusive, is  
 25 strictly liable for a civil penalty of not more than ~~one thousand~~  
 26 ~~dollars (\$1,000)~~ *ten thousand dollars (\$10,000)*.

27 (b) (1) Any person who violates any provision of this part, any  
 28 order issued pursuant to Section 42316, or any rule, regulation,  
 29 permit or order of a district, including a district hearing board, or  
 30 of the state board issued pursuant to Part 1 (commencing with  
 31 Section 39000) to Part 4 (commencing with Section 41500),  
 32 inclusive, is strictly liable for a civil penalty of not more than ~~ten~~  
 33 ~~thousand dollars (\$10,000)~~ *fifty thousand dollars (\$50,000)*.

34 (2) (A) If a civil penalty in excess of ~~one thousand dollars~~  
 35 ~~(\$1,000)~~ *five thousand dollars (\$5,000)* for each day in which a  
 36 violation occurs is sought, there is no liability under ~~this~~  
 37 ~~subdivision (a) or paragraph (1) for an amount above five thousand~~  
 38 ~~dollars (\$5,000) for each day during any portion of which a~~  
 39 ~~violation occurs, if the person accused of the violation alleges by~~  
 40 ~~affirmative defense and establishes that the violation was caused~~

1 by an act that was not the result of intentional nor negligent  
2 conduct.

3 (B) Subparagraph (A) shall not apply to a violation of federally  
4 enforceable requirements that occur at a Title V source in a district  
5 in which a Title V permit program has been fully approved.

6 (C) Subparagraph (A) does not apply to a person who is  
7 determined to have violated an annual facility emissions cap  
8 established pursuant to a market based incentive program adopted  
9 by a district pursuant to subdivision (b) of Section 39616.

10 *(c) Any person who owns or operates any source of air*  
11 *contaminants in violation of Section 41700 that causes a*  
12 *substantial risk of actual injury, as defined in subdivision (e) of*  
13 *Section 42400, to another person, whether the risk of injury is*  
14 *immediate or in the future, is liable for a civil penalty of not more*  
15 *than twenty-five thousand dollars (\$25,000).*

16 ~~(e)~~

17 *(d) Any person who owns or operates any source of air*  
18 *contaminants in violation of Section 41700 that causes actual*  
19 *injury, as defined in subdivision ~~(d)~~ (e) of Section 42400, to the*  
20 *health and safety of a considerable number of persons or the public*  
21 *another person, is liable for a civil penalty of not more than fifteen*  
22 *thousand dollars ~~(\$15,000) fifty thousand dollars (\$50,000).~~*

23 ~~(d)~~

24 *(e) Each day during any portion of which a violation occurs is*  
25 *a separate offense.*

26 SEC. 15. Section 42402.1 of the Health and Safety Code is  
27 amended to read:

28 42402.1. (a) Any person who negligently emits an air  
29 contaminant in violation of this part or any rule, regulation, permit,  
30 or order of the state board or of a district, including a district  
31 hearing board, pertaining to emission regulations or limitations is  
32 liable for a civil penalty of not more than twenty-five thousand  
33 dollars (\$25,000).

34 *(b) Any person who negligently emits an air contaminant in*  
35 *violation of Section 41700 that causes a substantial risk of actual*  
36 *injury, as defined in subdivision (e) of Section 42400, to another*  
37 *person, whether the risk of injury is immediate or in the future, is*  
38 *liable for a civil penalty of not more than fifty thousand dollars*  
39 *(\$50,000).*

1 (c) Any person who negligently emits an air contaminant in  
2 violation of Section 41700 that causes actual injury, as defined in  
3 subdivision (e) of Section 42400, to another person is liable for a  
4 civil penalty of not more than seventy-five thousand dollars  
5 (\$75,000).

6 ~~(b)~~

7 (d) Any person who negligently emits an air contaminant in  
8 violation of Section 41700 that causes great bodily injury, as  
9 defined by Section 12022.7 of the Penal Code, to any person or  
10 that causes the death of any person; is liable for a civil penalty of  
11 not more than one hundred thousand dollars (\$100,000).

12 ~~(e)~~

13 (e) Each day during any portion of which a violation occurs is  
14 a separate offense.

15 SEC. 16. Section 42402.2 of the Health and Safety Code is  
16 amended to read:

17 42402.2. (a) Any person who emits an air contaminant in  
18 violation of any provision of this part, or any order, rule, regulation,  
19 or permit of the state board or of a district, including a district  
20 hearing board, pertaining to emission regulations or limitations,  
21 and who knew of the emission and failed to take corrective action,  
22 as defined in subdivision (b) of Section 42400.2, within a  
23 reasonable period of time under the circumstances, is liable for a  
24 civil penalty of not more than forty thousand dollars (\$40,000).

25 (b) Any person who emits an air contaminant in violation of  
26 Section 41700 that causes a substantial risk of actual injury, as  
27 defined in subdivision (e) of Section 42400, to another person,  
28 whether the risk of injury is immediate or in the future, and who  
29 knew of the discharge and failed to take corrective action, as  
30 defined in subdivision (b) of Section 42400.2, within a reasonable  
31 period of time under the circumstances, is liable for a civil penalty  
32 of not more than seventy-five thousand dollars (\$75,000).

33 (c) Any person who emits an air contaminant in violation of  
34 Section 41700 that causes actual injury, as defined in subdivision  
35 (e) of Section 42400, to another person, and who knew of the  
36 discharge and failed to take corrective action, as defined in  
37 subdivision (b) of Section 42400.2, within a reasonable period of  
38 time under the circumstances, is liable for a civil penalty of not  
39 more than one hundred thousand dollars (\$100,000).

40 ~~(b)~~

1 (d) Any person who owns or operates any source of air  
2 contaminants in violation of Section 41700 that causes great bodily  
3 injury, as defined by Section 12022.7 of the Penal Code, to any  
4 person or that causes the death of any person, and who knew of  
5 the emission and failed to take corrective action, as defined in  
6 subdivision (b) of Section 42400.2, within a reasonable period of  
7 time under the circumstances, is liable for a civil penalty not to  
8 exceed two hundred fifty thousand dollars (\$250,000).

9 (e)

10 (e) Each day during any portion of which a violation occurs is  
11 a separate offense.

12 SEC. 17. Section 42402.3 of the Health and Safety Code is  
13 amended to read:

14 42402.3. (a) Any person who willfully and intentionally emits  
15 an air contaminant in violation of this part or any rule, regulation,  
16 permit, or order of the state board, or of a district, including a  
17 district hearing board, pertaining to emission regulations or  
18 limitations, is liable for a civil penalty of not more than  
19 seventy-five thousand dollars (\$75,000).

20 (b) Any person who willfully and intentionally, or with reckless  
21 disregard for the risk of causing actual injury, as defined in  
22 subdivision (e) of Section 42400, emits an air contaminant in  
23 violation of Section 41700 that results in a substantial risk of actual  
24 injury to another person, whether the risk of injury is immediate  
25 or in the future, is liable for a civil penalty of not more than one  
26 hundred thousand dollars (\$100,000).

27 (c) Any person who willfully and intentionally, or with reckless  
28 disregard for the risk of causing actual injury, as defined in  
29 subdivision (e) of Section 42400, emits an air contaminant in  
30 violation of Section 41700 that results in actual injury to another  
31 person, is liable for a civil penalty of not more than one hundred  
32 twenty-five thousand dollars (\$125,000). If the defendant is a  
33 corporation, the maximum fine shall be two hundred fifty thousand  
34 dollars (\$250,000).

35 (b)

36 (d) Any person who willfully and intentionally, or with reckless  
37 disregard for the risk of great bodily injury, as defined by Section  
38 12022.7 of the Penal Code, to, or death of, any person, emits an  
39 air contaminant in violation of Section 41700 that results in an  
40 unreasonable risk of great bodily injury to, or death of, any person,

1 is liable for a civil penalty of not more than ~~one hundred~~  
 2 ~~twenty-five thousand dollars (\$125,000)~~ *one hundred fifty thousand*  
 3 *dollars (\$150,000)*. If the violator is a corporation, the maximum  
 4 penalty ~~may be up to~~ *is* five hundred thousand dollars (\$500,000).

5 (e)  
 6 (e) Any person who willfully and intentionally, or with reckless  
 7 disregard for the risk of great bodily injury, as defined by Section  
 8 12022.7 of the Penal Code, to, or death of, any person, emits an  
 9 air contaminant in violation of Section 41700 that causes great  
 10 bodily injury, as defined by Section 12022.7 of the Penal Code,  
 11 to any person or that causes the death of any person, is liable for  
 12 a civil penalty of not more than ~~two hundred fifty thousand dollars~~  
 13 ~~(\$250,000)~~ *five hundred thousand dollars (\$500,000)*. If the  
 14 violator is a corporation, the maximum penalty may be up to one  
 15 million dollars (\$1,000,000).

16 (d)  
 17 (f) Each day during any portion of which a violation occurs is  
 18 a separate offense.

19 SEC. 18. Section 42402.4 of the Health and Safety Code is  
 20 amended to read:

21 42402.4. (a) *Any person who knowingly makes any false*  
 22 *material statement, representation, or certification in any form,*  
 23 *notice, or report required to be kept pursuant to any provision of*  
 24 *this part, or any rule, regulation, permit, or order of the state*  
 25 *board or of a district, including a district hearing board, or who*  
 26 *knowingly renders inaccurate any monitoring device required by*  
 27 *any such rule, regulation, permit, or order, is liable for a civil*  
 28 *penalty of not more than fifty thousand dollars (\$50,000).*

29 (b) Any person who knowingly and with intent to deceive,  
 30 ~~falsifies any document~~ *makes any false material statement,*  
 31 *representation, or certification in any form, notice, or report*  
 32 *required to be kept pursuant to any provision of this part, or any*  
 33 *rule, regulation, permit, or order of the state board or of a district,*  
 34 *including a district hearing board, or who knowingly and with*  
 35 *intent to deceive renders inaccurate any monitoring device required*  
 36 *by any such rule, regulation, permit, or order, is liable for a civil*  
 37 *penalty of not more than* ~~thirty-five thousand dollars (\$35,000)~~  
 38 *one hundred thousand dollars (\$100,000).*

39 SEC. 19. Section 42402.4.5 is added to the Health and Safety  
 40 Code, to read:

1 42402.4.5. Any person who knowingly violates any rule,  
2 regulation, permit, order, fee requirement, or filing requirement  
3 of the state board or of a district, including a district hearing board,  
4 that is adopted for the control of toxic air contaminants pursuant  
5 to Part 1 (commencing with Section 39000) to Part 4 (commencing  
6 with Section 41500), inclusive, and for which delegation or  
7 approval of implementation and enforcement authority has been  
8 obtained pursuant to subdivision (l) of Section 112 of the Clean  
9 Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted  
10 pursuant thereto, is liable for a civil penalty of not more than ten  
11 thousand dollars (\$10,000).

12 SEC. 20. Section 42402.6 is added to the Health and Safety  
13 Code, to read:

14 42402.6. An act or omission that is punishable by different  
15 civil penalties pursuant to different provisions of this article shall  
16 be punished under the provision that provides for the highest  
17 maximum civil penalty and shall not be punished civilly under  
18 more than one provision.

19 SEC. 21. If the Commission on State Mandates determines  
20 that this act contains costs mandated by the state, reimbursement  
21 to local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.