

**ASSEMBLY BILL**

**No. 934**

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**Introduced by Assembly Member Duvall**  
(Coauthor: Senator Runner)

February 22, 2007

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An act to amend Sections 39666, 43013, and 43018 of, and to add Section 39666.5 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 934, as introduced, Duvall. State Air Resources Board: air districts: mobile nonvehicular regulations.

(1) Existing law requires the State Air Resources Board to adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources, and requires local air districts to implement and enforce the airborne toxic control measures or propose regulations enacting airborne toxic control measures on nonvehicular sources within their jurisdiction, and authorizes districts to adopt more stringent airborne toxic control measures than those adopted by the state board.

This bill would modify these provisions to authorize districts to adopt airborne toxic control measures only for nonvehicular stationary sources.

(2) Existing law requires the state board to adopt standards and regulations for motor vehicles and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

This bill would provide that the state board has exclusive jurisdiction to adopt these standards.

The bill would also provide that an existing provision of law does not authorize districts to share concurrent jurisdiction with the state board over mobile nonvehicular sources.

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

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

- 1 SECTION 1. It is the intent of the Legislature to further clarify
- 2 its standing intent to encourage statewide, uniform implementation
- 3 of regulations regarding mobile nonvehicular sources of emissions
- 4 when consistent with federal law, and further its standing intent
- 5 to discourage district-by-district adoption of different regulations.
- 6 SEC. 2. Section 39666 of the Health and Safety Code is
- 7 amended to read:
- 8 39666. (a) Following a noticed public hearing, the state board
- 9 shall adopt airborne toxic control measures to reduce emissions
- 10 of toxic air contaminants from nonvehicular *stationary* sources.
- 11 (b) For toxic air contaminants for which the state board has
- 12 determined, pursuant to Section 39662, that there is a threshold
- 13 exposure level below which no significant adverse health effects
- 14 are anticipated, the airborne toxic control measure shall be
- 15 designed, in consideration of the factors specified in subdivision
- 16 (b) of Section 39665, to reduce emissions sufficiently so that the
- 17 source will not result in, or contribute to, ambient levels at or in
- 18 excess of the level which may cause or contribute to adverse health
- 19 effects as that level is estimated pursuant to subdivision (c) of
- 20 Section 39660.
- 21 (c) For toxic air contaminants for which the state board has not
- 22 specified a threshold exposure level pursuant to Section 39662,
- 23 the airborne toxic control measure shall be designed, in
- 24 consideration of the factors specified in subdivision (b) of Section
- 25 39665, to reduce emissions to the lowest level achievable through
- 26 application of best available control technology or a more effective
- 27 control method, unless the state board or a district board
- 28 determines, based on an assessment of risk, that an alternative
- 29 level of emission reduction is adequate or necessary to prevent an
- 30 endangerment of public health.
- 31 (d) Not later than 120 days after the adoption or implementation
- 32 by the state board of an airborne toxic control measure pursuant

1 to this section or Section 39658, the districts shall implement and  
2 enforce the airborne toxic control measure or shall propose  
3 regulations enacting airborne toxic control measures on  
4 nonvehicular *stationary* sources within their jurisdiction which  
5 meet the requirements of subdivisions (b), (c), and (e), except that  
6 a district may, at its option, and after considering the factors  
7 specified in subdivision (b) of Section 39665, adopt and enforce  
8 equally effective or more stringent airborne toxic control measures  
9 than the airborne toxic control measures adopted by the state board.  
10 A district shall adopt rules and regulations implementing airborne  
11 toxic control measures on nonvehicular *stationary* sources within  
12 its jurisdiction in conformance with subdivisions (b), (c), and (e),  
13 not later than six months following the adoption of airborne toxic  
14 control measures by the state board.

15 (e) District new source review rules and regulations shall require  
16 new or modified sources to control emissions of toxic air  
17 contaminants consistent with subdivisions (b), (c), and (d) and  
18 Article 2.5 (commencing with Section 39656).

19 (f) Where an airborne toxic control measure requires the use of  
20 a specified method or methods to reduce, avoid, or eliminate the  
21 emissions of a toxic air contaminant, a source may submit to the  
22 district an alternative method or methods that will achieve an equal  
23 or greater amount of reduction in emissions of, and risk associated  
24 with, that toxic air contaminant. The district shall approve the  
25 proposed alternative method or methods if the operator of the  
26 source demonstrates that the method is, or the methods are,  
27 enforceable, that equal or greater amounts of reduction in emissions  
28 and risk will be achieved, and that the reductions will be achieved  
29 within the time period required by the applicable airborne toxic  
30 control measure. The district shall revoke approval of the  
31 alternative method or methods if the source fails to adequately  
32 implement the approved alternative method or methods or if  
33 subsequent monitoring demonstrates that the alternative method  
34 or methods do not reduce emissions and risk as required. The  
35 district shall notify the state board of any action it proposes to take  
36 pursuant to this subdivision. ~~This subdivision~~

37 (g) *This section* is operative only to the extent it is consistent  
38 with ~~the federal-act law~~.

39 SEC. 3. Section 39666.5 is added to the Health and Safety  
40 Code, to read:

1 39666.5. (a) Following a noticed public hearing, the state  
2 board shall adopt airborne toxic control measures to reduce  
3 emissions of toxic air contaminants from nonvehicular mobile  
4 sources.

5 (b) For toxic air contaminants for which the state board has  
6 determined, pursuant to Section 39662, that there is a threshold  
7 exposure level below which no significant adverse health effects  
8 are anticipated, the airborne toxic control measure shall be  
9 designed, in consideration of the factors specified in subdivision  
10 (b) of Section 39665, to reduce emissions sufficiently so that the  
11 source will not result in, or contribute to, ambient levels at or in  
12 excess of the level which may cause or contribute to adverse health  
13 effects as that level is estimated pursuant to subdivision (c) of  
14 Section 39660.

15 (c) For toxic air contaminants for which the state board has not  
16 specified a threshold exposure level pursuant to Section 39662,  
17 the airborne toxic control measure shall be designed, in  
18 consideration of the factors specified in subdivision (b) of Section  
19 39665, to reduce emissions to the lowest level achievable through  
20 application of best available control technology or a more effective  
21 control method, unless the state board determines, based on an  
22 assessment of risk, that an alternative level of emission reduction  
23 is adequate or necessary to prevent an endangerment of public  
24 health.

25 (d) Unless otherwise determined by the state board, the state  
26 board shall implement and enforce the airborne toxic control  
27 measure not later than 120 days after the adoption of an airborne  
28 toxic control measure pursuant to this section or Section 39658.

29 (e) Where an airborne toxic control measure requires the use of  
30 a specified method or methods to reduce, avoid, or eliminate the  
31 emissions of a toxic air contaminant, a source may submit to the  
32 state board an alternative method or methods that will achieve an  
33 equal or greater amount of reduction in emissions of, and risk  
34 associated with, that toxic air contaminant. The state board shall  
35 approve the proposed alternative method or methods if the operator  
36 of the source demonstrates that the method is, or the methods are,  
37 enforceable, that equal or greater amounts of reduction in emissions  
38 and risk will be achieved, and that the reductions will be achieved  
39 within the time period required by the applicable airborne toxic  
40 control measure. The state board shall revoke approval of the

1 alternative method or methods if the source fails to adequately  
2 implement the approved alternative method or methods or if  
3 subsequent monitoring demonstrates that the alternative method  
4 or methods do not reduce emissions and risk as required. The  
5 district shall notify the state board of any action it proposes to take  
6 pursuant to this subdivision.

7 (f) This section is operative only to the extent it is consistent  
8 with federal law.

9 SEC. 4. Section 43013 of the Health and Safety Code is  
10 amended to read:

11 43013. (a) The state board may adopt and implement motor  
12 vehicle emission standards, in-use performance standards, and  
13 motor vehicle fuel specifications for the control of air contaminants  
14 and sources of air pollution which the state board has found to be  
15 necessary, cost-effective, and technologically feasible, to carry  
16 out the purposes of this division, unless preempted by federal law.

17 (b) The state board shall, *and has exclusive authority to*,  
18 consistent with subdivision (a), adopt standards and regulations  
19 for light-duty and heavy-duty motor vehicles; medium-duty motor  
20 vehicles, as determined and specified by the state board; and  
21 off-road or nonvehicle engine categories, including, but not limited  
22 to, off-highway motorcycles, off-highway vehicles, construction  
23 equipment, farm equipment, utility engines, locomotives, and, to  
24 the extent permitted by federal law, marine vessels.

25 (c) Prior to adopting standards and regulations for farm  
26 equipment, the state board shall hold a public hearing and find and  
27 determine that the standards and regulations are necessary,  
28 cost-effective, and technologically feasible. The state board shall  
29 also consider the technological effects of emission control standards  
30 on the cost, fuel consumption, and performance characteristics of  
31 mobile farm equipment.

32 (d) Notwithstanding subdivision (b), the state board shall not  
33 adopt any standard or regulation affecting locomotives until the  
34 final study required under Section 5 of Chapter 1326 of the Statutes  
35 of 1987 has been completed and submitted to the Governor and  
36 Legislature.

37 (e) Prior to adopting or amending any standard or regulation  
38 relating to motor vehicle fuel specifications pursuant to this section,  
39 the state board shall, after consultation with public or private

1 entities that would be significantly impacted as described in  
2 paragraph (2) of subdivision (f), do both of the following:

3 (1) Determine the cost-effectiveness of the adoption or  
4 amendment of the standard or regulation. The cost-effectiveness  
5 shall be compared on an incremental basis with other mobile source  
6 control methods and options.

7 (2) Based on a preponderance of scientific and engineering data  
8 in the record, determine the technological feasibility of the adoption  
9 or amendment of the standard or regulation. That determination  
10 shall include, but is not limited to, the availability, effectiveness,  
11 reliability, and safety expected of the proposed technology in an  
12 application that is representative of the proposed use.

13 (f) Prior to adopting or amending any motor vehicle fuel  
14 specification pursuant to this section, the state board shall do both  
15 of the following:

16 (1) To the extent feasible, quantitatively document the  
17 significant impacts of the proposed standard or specification on  
18 affected segments of the state's economy. The economic analysis  
19 shall include, but is not limited to, the significant impacts of any  
20 change on motor vehicle fuel efficiency, the existing motor vehicle  
21 fuel distribution system, the competitive position of the affected  
22 segment relative to border states, and the cost to consumers.

23 (2) Consult with public or private entities that would be  
24 significantly impacted to identify those investigative or preventive  
25 actions that may be necessary to ensure consumer acceptance,  
26 product availability, acceptable performance, and equipment  
27 reliability. The significantly impacted parties shall include, but are  
28 not limited to, fuel manufacturers, fuel distributors, independent  
29 marketers, vehicle manufacturers, and fuel users.

30 (g) To the extent that there is any conflict between the  
31 information required to be prepared by the state board pursuant to  
32 subdivision (f) and information required to be prepared by the state  
33 board pursuant to Chapter 3.5 (commencing with Section 11340)  
34 of Part 1 of Division 3 of Title 2 of the Government Code, the  
35 requirements established under subdivision (f) shall prevail.

36 (h) It is the intent of the Legislature that the state board act as  
37 expeditiously as is feasible to reduce nitrogen oxide emissions  
38 from diesel vehicles, marine vessels, and other categories of  
39 vehicular and mobile sources which significantly contribute to air  
40 pollution problems.

1 (i) *The amendments of this section made at the 2007–08 Regular*  
2 *Session do not constitute a change in, but are declaratory of, the*  
3 *existing law.*

4 SEC. 5. Section 43018 of the Health and Safety Code is  
5 amended to read:

6 43018. (a) The state board shall endeavor to achieve the  
7 maximum degree of emission reduction possible from vehicular  
8 and other mobile sources in order to accomplish the attainment of  
9 the state standards at the earliest practicable date.

10 (b) Not later than January 1, 1992, the state board shall take  
11 whatever actions are necessary, cost-effective, and technologically  
12 feasible in order to achieve, not later than December 31, 2000, a  
13 reduction in the actual emissions of reactive organic gases of at  
14 least 55 percent, a reduction in emissions of oxides of nitrogen of  
15 at least 15 percent from motor vehicles. These reductions in  
16 emissions shall be calculated with respect to the 1987 baseline  
17 year. The state board also shall take action to achieve the maximum  
18 feasible reductions in particulates, carbon monoxide, and toxic air  
19 contaminants from vehicular sources.

20 (c) In carrying out this section, the state board shall adopt  
21 standards and regulations which will result in the most  
22 cost-effective combination of control measures on all classes of  
23 motor vehicles and motor vehicle fuel, including, but not limited  
24 to, all of the following:

25 (1) Reductions in motor vehicle exhaust and evaporative  
26 emissions.

27 (2) Reductions in emissions from in-use emissions from motor  
28 vehicles through improvements in emission system durability and  
29 performance.

30 (3) Requiring the purchase of low-emission vehicles by state  
31 fleet operators.

32 (4) Specification of vehicular fuel composition.

33 (d) In order to accomplish the purposes of this division, and to  
34 ensure timely approval of the district's plans for attainment of the  
35 state air quality standards by the state board, the state board shall  
36 adopt the following schedule for workshops and hearings to  
37 consider the adoption of the standards and regulations required  
38 pursuant to this section:

39 (1) Workshops on the adoption of vehicular fuel specifications  
40 for aromatic content, diesel fuel quality, light-duty vehicle exhaust

1 emission standards, and revisions to the standards for new vehicle  
 2 certification and durability to reflect current driving conditions  
 3 and useful vehicle life shall be held not later than March 31, 1989.  
 4 Hearings of the state board to consider adoption of proposed  
 5 regulations pursuant to this subdivision shall be held not later than  
 6 November 15, 1989.

7 (2) Notwithstanding Section 43830, workshops on the adoption  
 8 of regulations governing gasoline Reid vapor pressure, and  
 9 standards for heavy-duty and medium-duty vehicle emissions,  
 10 shall be held not later than January 31, 1990. Hearings of the state  
 11 board to consider adoption of proposed regulations pursuant to  
 12 this subdivision shall be held not later than November 15, 1990.

13 (3) Workshops on the adoption of regulations governing  
 14 detergent content, emissions from off-highway vehicles, vehicle  
 15 fuel composition, emissions from construction equipment and farm  
 16 equipment, motorcycles, locomotives, utility engines, and to the  
 17 extent permitted by federal law, marine vessels, shall be held not  
 18 later than January 31, 1991. Hearings of the state board to consider  
 19 adoption of proposed regulations pursuant to this subdivision shall  
 20 be held not later than November 15, 1991.

21 (e) Prior to adopting standards and regulations pursuant to this  
 22 section, the state board shall consider the effect of the standards  
 23 and regulations on the economy of the state, including, but not  
 24 limited to, motor vehicle fuel efficiency.

25 (f) *This section does not authorize districts to share concurrent*  
 26 *jurisdiction with the state board over nonvehicular mobile sources.*

27 (f) —

28 (g) ~~The amendment~~ *amendments* of this section made at the  
 29 ~~1989–90 and 2007–08 Regular Session of the Legislature~~ *does*  
 30 ~~Sessions~~ *do* not constitute a change in, but ~~is~~ *are* declaratory of,  
 31 the existing law.