

AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1552

Introduced by Assembly Member Feuer

February 23, 2007

An act to amend Section 1798.69 of the Civil Code, and to amend Sections 25354 and 25364 of the Public Resources Code, relating to petroleum products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1552, as amended, Feuer. Petroleum products: information.

(1) Existing law prohibits the State Board of Equalization from releasing the names and addresses of individuals who are registered with, or are holding licenses or permits issued by, the board, with certain exceptions.

This bill would provide that those provisions do not prohibit the release by the State Board of Equalization to the State Energy Resources Conservation and Development Commission of data collected by the board that identifies by name, address, or telephone number, a business entity engaged in the retail sale within California of gasoline or diesel fuel.

(2) Existing law requires refiners and major marketers of petroleum products to submit specified information, within 30 days after the end of each monthly reporting period, to the State Energy Resources Conservation and Development Commission.

The bill would require those refiners and major marketers to submit additional specified information pertaining to financial information associated with, among other things, the production and transportation of refinery output, and would make related changes.

The bill would authorize the commission to collect from specified persons in the marine transportation industry information pertaining to congestion at marine petroleum terminal facilities within the state.

(3) Existing law makes specified information collected by the State Energy Resources Conservation and Development Commission confidential, subject to certain exceptions.

The bill would authorize the commission to disclose specified confidential information to the Attorney General if the Attorney General provides a written request in connection with an ongoing investigation.

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. Section 1798.69 of the Civil Code is amended
2 to read:

3 1798.69. (a) Except as provided in subdivision (b), the State
4 Board of Equalization shall not release the names and addresses
5 of individuals who are registered with, or are holding licenses or
6 permits issued by, the State Board of Equalization, except to the
7 extent necessary to verify resale certificates or to administer the
8 tax and fee provisions of the Revenue and Taxation Code.

9 (b) Nothing in this section shall prohibit either of the following:

10 (1) The release by the State Board of Equalization to, or limit
11 the use by, a federal or state agency, or local government, of data
12 collected by the board that is otherwise authorized by law.

13 (2) The release by the State Board of Equalization to the State
14 Energy Resources Conservation and Development Commission
15 of data collected by the board that identifies by name, address, or
16 telephone number, a business entity engaged in the retail sale
17 within the state of gasoline or diesel fuel.

18 SEC. 2. Section 25354 of the Public Resources Code is
19 amended to read:

20 25354. (a) Each refiner and major marketer shall submit
21 information each month to the commission in the form and extent
22 that the commission prescribes pursuant to this section. The

1 information shall be submitted within 30 days after the end of each
2 monthly reporting period and shall include the following:

3 (1) Refiners shall report, for each of their refineries, feedstock
4 inputs, origin of petroleum receipts, imports of finished petroleum
5 products and blendstocks, by type, including the source of those
6 imports, exports of finished petroleum products and blendstocks,
7 by type, including the destination of those exports, refinery outputs,
8 refinery stocks, and finished product supply and distribution,
9 including all gasoline sold unbranded by the refiner, blender, or
10 importer.

11 (2) Major marketers shall report on petroleum product receipts
12 and the sources of these receipts, inventories of finished petroleum
13 products and blendstocks, by type, distributions through branded
14 and unbranded distribution networks, and exports of finished
15 petroleum products and blendstocks, by type, from the state.

16 (b) Each major oil producer, refiner, marketer, oil transporter,
17 and oil storer shall annually submit information to the commission
18 in the form and *to the* extent that the commission prescribes
19 pursuant to this section. The commission may determine the form
20 and extent necessary by order or by regulation. The information
21 shall be submitted within 30 days after the end of each reporting
22 period, and shall include the following:

23 (1) Major oil transporters shall report on petroleum by reporting
24 the capacities of each major transportation system, the amount
25 transported by each system, and inventories of each system. The
26 commission may prescribe rules and regulations that exclude
27 pipeline and transportation modes operated entirely on property
28 owned by major oil transporters from the reporting requirements
29 of this section if the data or information is not needed to fulfill the
30 purposes of this chapter. The provision of the information shall
31 not be construed to increase or decrease any authority the Public
32 Utilities Commission may otherwise have.

33 (2) Major oil storers shall report on storage capacity, inventories,
34 receipts and distributions, and methods of transportation of receipts
35 and distributions.

36 (3) Major oil producers, with respect to thermally enhanced oil
37 recovery operations, shall report annually by designated oil field,
38 the monthly use, as fuel, of crude oil and natural gas.

39 (4) Refiners shall report on facility capacity, and utilization and
40 method of transportation of refinery receipts and distributions.

1 (5) Major oil marketers shall report on facility capacity and
2 methods of transportation of receipts and distributions.

3 (6) ~~Each~~A person required to report pursuant to this subdivision
4 shall submit annually to the commission—~~such~~ *all* financial
5 information as the commission may determine *that the commission*
6 *determines* is necessary for the purpose of analyzing and reporting
7 upon the profits, earnings, and other financial conditions of the
8 California petroleum industry, including, but not limited to,
9 financial information pertaining to exploration and production;
10 transportation (whether by one or more marine vessel, pipeline,
11 rail, or tanker truck); refining; marketing; trading; retail; and any
12 other industry function that the commission deems necessary and
13 appropriate for purposes of this section. Except to the extent
14 previously made public by the person supplying the information,
15 the financial information obtained pursuant to this paragraph shall
16 be held in confidence by the commission. Any report of the
17 commission pursuant to this paragraph shall only include
18 confidential financial information if the information is aggregated
19 to the extent necessary to assure confidentiality and protect against
20 unfair competitive disadvantage to the person supplying the
21 information.

22 (c) Each person required to report pursuant to subdivision (a)
23 shall submit a projection each month of the information to be
24 submitted pursuant to subdivision (a) for the quarter following the
25 month in which the information is submitted to the commission.

26 (d) In addition to the data required under subdivision (a), each
27 integrated oil refiner (produces, refines, transports, and markets
28 in interstate commerce) who supplies more than 500 branded retail
29 outlets in California shall submit to the commission an annual
30 industry forecast for Petroleum Administration for Defense, District
31 V (covering Arizona, Nevada, Washington, Oregon, California,
32 Alaska, and Hawaii). The forecast shall include the information
33 to be submitted under subdivision (a), and shall be submitted by
34 March 15 of each year. The commission may require
35 California-specific forecasts. However, those forecasts shall be
36 required only if the commission finds them necessary to carry out
37 its responsibilities.

38 (e) The commission by order or regulation may modify the
39 reporting period as to any individual item of information setting
40 forth in the order or regulation its reason for so doing.

1 (f) The commission may request additional information as
2 necessary to perform its responsibilities under this chapter.

3 (g) A person required to submit information or data under this
4 chapter, in lieu thereof, may submit a report made to any other
5 governmental agency, if:

6 (1) The alternate report or reports contain all of the information
7 or data required by specific request under this chapter.

8 (2) The person clearly identifies the specific request to which
9 the alternate report is responsive.

10 (h) Each refiner shall submit to the commission, within 30 days
11 after the end of each monthly reporting period, all of the following
12 information in such form and extent as the commission prescribes:

13 (1) Monthly weighted average cost, prices, and sales volumes
14 of finished leaded regular, unleaded regular, and premium motor
15 gasoline sold within California through company-operated retail
16 outlets, to other end-users, and to wholesale customers.

17 (2) Monthly weighted average cost, prices, and sales volumes
18 for residential sales, commercial and institutional sales, industrial
19 sales, sales through company-operated retail outlets, sales to other
20 end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel
21 oil, sold in California.

22 (3) Monthly weighted average cost, prices, and sales volumes
23 for retail sales and wholesale sales of No. 1 distillate, kerosene,
24 finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil,
25 residual fuel oil with 1 percent or less sulfur, residual fuel oil with
26 greater than 1 percent sulfur and consumer grade propane, sold in
27 California.

28 (i) (1) Beginning the first week after the effective date of the
29 act that adds subdivision (j), and each week thereafter, an oil
30 refiner, oil producer, petroleum product transporter, petroleum
31 product marketer, petroleum product pipeline operator, petroleum
32 trader, and terminal operator, as designated by the commission,
33 shall submit a report in the form and ~~extent~~ *as to the extent that*
34 the commission prescribes pursuant to this section. The commission
35 may determine the form and extent necessary by order or by
36 regulation.

37 (2) A report may include any of the following information:

38 (A) Receipts, weighted average cost, and inventory levels of
39 crude oil and petroleum products at each refinery and terminal
40 location within and without California.

1 (B) Amount, weighted average cost, and weighted average sales
 2 price, by category, of gasoline, diesel, jet fuel, blending
 3 components, and other petroleum products imported into and
 4 exported from California.

5 (C) Amount and weighted average cost of transportation, by
 6 category, of gasoline, diesel, jet fuel, blending components, and
 7 other petroleum products transported intrastate by marine vessel.

8 (D) Amount and average weighted cost of crude oil imported,
 9 into California and imported into the United States, excluding
 10 California, including information identifying the source of the
 11 crude oil.

12 (E) The regional average of invoiced retailer buying price by
 13 product, and associated regional average cost of each product sold
 14 to that retailer. This subparagraph does not ~~either preclude or~~
 15 *preclude nor* augment the current authority of the commission to
 16 collect additional data under subdivision (f).

17 (F) Daily spot market trading activity, including prices,
 18 quantities, delivery dates, identity of trading partners, and other
 19 information as the commission deems necessary and appropriate
 20 for the purposes of this chapter.

21 (3) This subdivision is intended to clarify the commission’s
 22 existing authority under subdivision (f) to collect specific
 23 information. This subdivision does not ~~either preclude or~~ *preclude*
 24 *nor* augment the existing authority of the commission to collect
 25 information.

26 (j) The commission ~~may, by rule or order,~~ *by rule or order may*
 27 collect from owners and operators of marine petroleum terminals,
 28 owners and operators of marine vessels shipping petroleum
 29 products, the Southern California Marine Exchange and its
 30 successors, and from the Marine Exchange of the San Francisco
 31 Bay Region and its successors, ~~such information as~~ *any information*
 32 *that* it deems necessary and appropriate to analyze and report upon
 33 actual and potential congestion at marine petroleum terminal
 34 facilities within the state. ~~Each~~ A person required to report pursuant
 35 to this subdivision shall provide ~~this~~ *the* information at the interval
 36 and in the format that is determined by the commission. Except to
 37 the extent previously made public by the person supplying the
 38 information, the information obtained pursuant to this subdivision
 39 shall be held in confidence by the commission. Any report of the
 40 commission pursuant to this subdivision shall only include

1 confidential marine petroleum terminal information if the
2 information is aggregated to the extent necessary to assure
3 confidentiality and protect against unfair competitive disadvantage
4 to the person supplying the information, or disclosure of proprietary
5 information or information constituting a trade secret.

6 SEC. 3. Section 25364 of the Public Resources Code is
7 amended to read:

8 25364. (a) A person required to present information to the
9 commission pursuant to Section 25354 may request that specific
10 information be held in confidence. Information requested to be
11 held in confidence shall be presumed to be confidential.

12 (b) Information presented to the commission pursuant to Section
13 25354 shall be held in confidence by the commission or aggregated
14 to the extent necessary to assure confidentiality if public disclosure
15 of the specific information or data would result in unfair
16 competitive disadvantage to the person supplying the information.

17 (c) (1) Whenever the commission receives a request to publicly
18 disclose unaggregated information, or otherwise proposes to
19 publicly disclose information submitted pursuant to Section 25354,
20 notice of the request or proposal shall be provided to the person
21 submitting the information. The notice shall indicate the form in
22 which the information is to be released. Upon receipt of notice,
23 the person submitting the information shall have 10 working days
24 in which to respond to the notice to justify the claim of
25 confidentiality on each specific item of information covered by
26 the notice on the basis that public disclosure of the specific
27 information would result in unfair competitive disadvantage to the
28 person supplying the information.

29 (2) The commission shall consider the respondent's submittal
30 in determining whether to publicly disclose the information
31 submitted to it to which a claim of confidentiality is made. The
32 commission shall issue a written decision which sets forth its
33 reasons for making the determination whether each item of
34 information for which a claim of confidentiality is made shall
35 remain confidential or shall be publicly disclosed.

36 (d) The commission shall not make public disclosure of
37 information submitted to it pursuant to Section 25354 within 10
38 working days after the commission has issued its written decision
39 required in this section.

1 (e) Information submitted to the commission pursuant to Section
2 25354 shall not be deemed confidential if the person submitting
3 the information or data has made it public.

4 (f) With respect to petroleum products and blendstocks reported
5 by type pursuant to paragraph (1) or (2) of subdivision (a) of
6 Section 25354 and information provided pursuant to subdivision
7 (h) or (i) of Section 25354, neither the commission nor an employee
8 of the commission may do any of the following:

9 (1) Use the information furnished under paragraph (1) or (2) of
10 subdivision (a) of Section 25354 or under subdivision (h) or (i) of
11 Section 25354 for a purpose other than the statistical purposes for
12 which it is supplied.

13 (2) Make any publication whereby the information furnished
14 by a particular establishment or individual under paragraph (1) or
15 (2) of subdivision (a) of Section 25354 or under subdivision (h)
16 or (i) of Section 25354 can be identified.

17 (3) Permit anyone other than commission members and
18 employees of the commission to examine the individual reports
19 provided under paragraph (1) or (2) of subdivision (a) of Section
20 25354 or under subdivision (h) or (i) of Section 25354.

21 (g) Notwithstanding any other provision of law, the commission
22 may disclose confidential information received pursuant to either
23 of the following:

24 (1) Subdivision (a) of Section 25304 or Section 25354 to the
25 State Air Resources Board if the state board agrees to keep the
26 information confidential. With respect to the information it
27 receives, the state board shall be subject to all pertinent provisions
28 of this section.

29 (2) Section 25354 to the Attorney General if the Attorney
30 General provides a written request for the information, in
31 connection with an ongoing investigation. With respect to the
32 information the Attorney General receives, the Attorney General
33 shall be subject to all pertinent provisions of Article 2 (commencing
34 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
35 2 of the Government Code, relating to confidentially of
36 investigatory records.

O