

AMENDED IN ASSEMBLY JULY 10, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE MARCH 20, 2007

SENATE BILL

No. 210

Introduced by Senator Kehoe

February 8, 2007

An act to *amend Section 38505 of*, to add Section 43866.5 to, and to add Part 5.5 (commencing with Section 38575) to Division 25.5 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 210, as amended, Kehoe. Greenhouse gas emissions: fuel standard.

(1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. Under the act, the state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020, as specified, and requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions, as specified. The act authorizes the state board to adopt market-based compliance mechanisms, as defined, meeting specified requirements. The act makes violations of measures adopted by the state board punishable as a crime.

This bill would require the state board to adopt, implement, and enforce a low-carbon fuel standard that achieves the maximum technologically feasible and cost-effective greenhouse gas emissions

reductions, and at least a 10% reduction in, *life cycle* greenhouse gas emissions. *The state board, in consultation with other specified state agencies would be required to develop environmental reporting requirements to be imposed upon those subject to the low-carbon fuel standard. The California Environmental Protection Agency, in partnership with, and in consultation with, other state agencies would be required to issue an assessment on the actual and expected environmental impacts associated with implementation of the low-carbon fuel standard, and would be required to promulgate best management practices, standards, incentives, regulations, or certification programs to avoid or reduce to the maximum extent practicable negative environmental impacts associated with implementation of the low-carbon fuel standard. The bill would provide that fuel produced from biomass that is derived from certain sources would not meet the low-carbon fuel standard.* ~~Because~~

Because violations of the low-carbon fuel standard would be a crime, the bill would impose a state-mandated local program.

The bill would also require the State Energy Resources Conservation and Development Commission to update and reissue a specified report on alternative fuels.

(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 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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California is the 12th largest source of emissions that cause
- 4 climate change.
- 5 (b) California's transportation sector accounts for over 40
- 6 percent of these emissions.
- 7 (c) The California Global Warming Solutions Act of 2006
- 8 creates a statewide greenhouse gas emissions limit that would
- 9 reduce emissions by 25 percent by the year 2020.

1 (d) In order to achieve this reduction goal, approximately 13
2 million tons of greenhouse gas emissions must be reduced from
3 the transportation sector, the equivalent of 3 million passenger
4 vehicles being removed from the road.

5 *SEC. 2. Section 38505 of the Health and Safety Code is*
6 *amended to read:*

7 38505. For the purposes of this division, the following terms
8 have the following meanings:

9 (a) “Allowance” means an authorization to emit, during a
10 specified year, up to one ton of carbon dioxide equivalent.

11 (b) “Alternative compliance mechanism” means an action
12 undertaken by a greenhouse gas emission source that achieves the
13 equivalent reduction of greenhouse gas emissions over the same
14 time period as a direct emission reduction, and that is approved
15 by the state board. “Alternative compliance mechanism” includes,
16 but is not limited to, a flexible compliance schedule, alternative
17 control technology, a process change, or a product substitution.

18 (c) “Carbon dioxide equivalent” means the amount of carbon
19 dioxide by weight that would produce the same global warming
20 impact as a given weight of another greenhouse gas, based on the
21 best available science, including from the Intergovernmental Panel
22 on Climate Change.

23 (d) “Cost-effective” or “cost-effectiveness” means the cost per
24 unit of reduced emissions of greenhouse gases adjusted for its
25 global warming potential.

26 (e) “Direct emission reduction” means a greenhouse gas
27 emission reduction action made by a greenhouse gas emission
28 source at that source.

29 (f) “Emissions reduction measure” means programs, measures,
30 standards, and alternative compliance mechanisms authorized
31 pursuant to this division, applicable to sources or categories of
32 sources, that are designed to reduce emissions of greenhouse gases.

33 (g) “Greenhouse gas” or “greenhouse gases” includes all of the
34 following gases: carbon dioxide, methane, nitrous oxide,
35 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

36 (h) “Greenhouse gas emissions limit” means an authorization,
37 during a specified year, to emit up to a level of greenhouse gases
38 specified by the state board, expressed in tons of carbon dioxide
39 equivalents.

1 (i) “Greenhouse gas emission source” or “source” means any
2 source, or category of sources, of greenhouse gas emissions whose
3 emissions are at a level of significance, as determined by the state
4 board, that its participation in the program established under this
5 division will enable the state board to effectively reduce greenhouse
6 gas emissions and monitor compliance with the statewide
7 greenhouse gas emissions limit.

8 (j) “Leakage” means a reduction in emissions of greenhouse
9 gases within the state that is offset by an increase in emissions of
10 greenhouse gases outside the state.

11 (k) *“Life cycle greenhouse gas emissions” means the aggregate*
12 *quantity of greenhouse gases emitted during the entire life cycle*
13 *of a fuel, including production, extraction, cultivation,*
14 *transportation, and storage of feedstock; production,*
15 *manufacturing, distribution, marketing, transportation, and storage*
16 *of the fuel; and vehicle operation including refueling, combustion,*
17 *and conversion. This quantity includes emissions from the use and*
18 *transportation of water in each phase of the cycle and from*
19 *changes in land use and land cover associated with feedstock and*
20 *fuel production.*

21 ~~(k)~~

22 (l) “Market-based compliance mechanism” means either of the
23 following:

24 (1) A system of market-based declining annual aggregate
25 emissions limitations for sources or categories of sources that emit
26 greenhouse gases.

27 (2) Greenhouse gas emissions exchanges, banking, credits, and
28 other transactions, governed by rules and protocols established by
29 the state board, that result in the same greenhouse gas emission
30 reduction, over the same time period, as direct compliance with a
31 greenhouse gas emission limit or emission reduction measure
32 adopted by the state board pursuant to this division.

33 ~~(l)~~

34 (m) “State board” means the State Air Resources Board.

35 ~~(m)~~

36 (n) “Statewide greenhouse gas emissions” means the total annual
37 emissions of greenhouse gases in the state, including all emissions
38 of greenhouse gases from the generation of electricity delivered
39 to and consumed in California, accounting for transmission and
40 distribution line losses, whether the electricity is generated in state

1 or imported. Statewide emissions shall be expressed in tons of
2 carbon dioxide equivalents.

3 ~~(n)~~

4 (o) “Statewide greenhouse gas emissions limit” or “statewide
5 emissions limit” means the maximum allowable level of statewide
6 greenhouse gas emissions in 2020, as determined by the state board
7 pursuant to Part 3 (commencing with Section ~~38850~~ 38550).

8 ~~SEC. 2.~~

9 SEC. 3. Part 5.5 (commencing with Section 38575) is added
10 to Division 25.5 of the Health and Safety Code, to read:

11

12 PART 5.5. GREENHOUSE GAS EMISSIONS FUEL
13 STANDARDS

14

15 38575. (a) On or before January 1, 2010, the state board shall
16 adopt, implement, and enforce a low-carbon fuel standard that
17 achieves the maximum technologically feasible and cost-effective
18 greenhouse gas emissions reductions, and at least a 10 percent
19 reduction in *life cycle* greenhouse gas emissions, in furtherance of
20 the limit established pursuant to Section 38550.

21 (b) The low-carbon fuel standard adopted pursuant to this section
22 shall do all of the following:

23 (1) ~~For gasoline, maintain~~ *Maintain* or improve upon emissions
24 reductions and air quality benefits achieved by the California Phase
25 2 Reformulated Gasoline Program as of January 1, 1999, including
26 emissions reductions for all pollutants and precursors identified
27 in the State Implementation Plan for ozone, and emissions of
28 potency weighted air toxics compounds and particulate ~~matter~~.

29 ~~(2) For diesel fuel, matter as measured on a life cycle basis, or~~
30 maintain or improve upon the emissions reductions and air quality
31 benefits achieved by the California diesel fuel regulations in Article
32 2 (commencing with Section 2280) of Chapter 5 of Division 3 of
33 Title 13 of the California Code of Regulations *as measured on a*
34 *life cycle basis*.

35 (2) *Minimize to the maximum extent practicable, any negative*
36 *environmental impacts from the sourcing, production, and use of*
37 *low-carbon fuels in California.*

38 (3) Ensure that the adoption, implementation, and enforcement
39 of the low-carbon fuel standard is consistent with environmental
40 justice as defined in Section 65040.12 of the Government Code.

1 38575.5. (a) Except as provided in subdivision (b), a fuel
2 produced from biomass that is derived from any of the following
3 does not meet the low-carbon fuel standard:

4 (1) Any national wildlife refuge, national park, national
5 monument, national forest, national grassland, or federal
6 wilderness study area.

7 (2) Any lands within California in any of the following
8 categories:

9 (A) Late succession forest stands, as defined in Section 895.1
10 of Title 14 of the California Code of Regulations.

11 (B) State parks, reserves, and forests.

12 (C) Intact, rare, threatened, or endangered ecosystems identified
13 in the California Natural Diversity Database.

14 (D) Lands owned or managed by the Department of Fish and
15 Game.

16 (E) Crops and crop residue from land where native forest,
17 riparian areas, or native grasslands were cleared for agricultural
18 production after January 1, 2008, or wetlands were drained for
19 agricultural production after January 1, 2008.

20 (b) Notwithstanding subdivision (a), biomass derived from any
21 of the following may meet the low-carbon fuel standard, if all
22 required environmental reviews are carried out and all applicable
23 environmental laws and regulations are complied with:

24 (1) Fallow, nonforested agricultural lands.

25 (2) Harvest residue, mill waste, or precommercial thinnings
26 from lands assigned to timber production within state forests and
27 national forests outside of inventoried roadless areas.

28 (3) Within 150 feet of buildings and other regularly occupied
29 areas or as designated by the state fire marshal.

30 (4) Within 150 feet of public infrastructure within state or
31 national forests, wilderness study areas on Bureau of Land
32 Management lands, and late succession forest stands, as defined
33 in Section 895.1 of Title 14 of the California Code of Regulations.

34 (c) The state board may not create any exemptions from any
35 law designed to protect the environment, including the Roadless
36 Area Conservation Rule of 2001, for biomass production,
37 transportation, growth, harvesting, or distribution to meet the
38 low-carbon fuel standard.

39 38576. By January 1, 2010, the state board, in consultation
40 with the State Energy Resources Conservation and Development

1 Commission, the Department of Food and Agriculture, and the
2 Department of Forestry and Fire Protection, shall develop
3 environmental reporting requirements to be imposed upon those
4 persons subject to the low-carbon fuel standard. The reporting
5 requirements shall include, but not be limited to, the impacts
6 associated with producing the feedstock and fuel, including
7 fertilizer use, pesticide use, water use, land conversion, and the
8 quantity and type of waste products emitted into the air or water.

9 38577. (a) By January 1, 2012, the California Environmental
10 Protection Agency, in partnership with the State Energy Resources
11 Conservation and Development Commission, and in consultation
12 with the state board, the Resources Agency, and other relevant
13 state agencies, shall issue an assessment on the actual and expected
14 environmental impacts associated with implementation of the
15 low-carbon fuel standard, including, but not limited to, all of the
16 following:

17 (1) The effects on habitat and ecosystem health, long term
18 sustainability in land management, air quality, water quality, water
19 supply, food production, and generation of toxic byproducts from
20 actual or projected increases in transportation energy production
21 resulting from implementation of the low-carbon fuel standard,
22 including impacts associated with production, handling, and
23 transportation of these fuels.

24 (2) Information on adverse environmental impacts related to
25 the production of feedstocks and fuels outside of California,
26 including elsewhere in the United States and globally, for import
27 into the California.

28 (3) A comparison between the impacts of the low-carbon fuel
29 standard and changes to the environment associated with an
30 increase in the extraction, production, and use of petroleum-based
31 transportation fuels that have been displaced by low-carbon fuels
32 because of the low-carbon fuel standard. This comparison shall
33 include specific information on changes in air and water quality
34 and emissions of toxics into California communities that are
35 currently disproportionately impacted by the existing infrastructure
36 for the production, handling, and transportation of conventional
37 fuels.

38 (b) The assessment shall be updated and reissued every three
39 years, to take into account, among other things, new information,

1 updated or revised quantification methods, and evolving scientific
2 understanding concerning all of the following:

3 (1) The life cycle greenhouse gas emissions of any fuels that
4 meet the low-carbon fuel standard.

5 (2) The environmental impacts associated with implementation
6 of the low-carbon fuel standard.

7 (3) The impact and adequacy of measures implemented pursuant
8 to Section 38577.5.

9 (c) The California Environmental Protection Agency shall make
10 the assessment available to the public on its Internet Web site.

11 38577.5. No later than June 1, 2013, the California
12 Environmental Protection Agency, in partnership with the State
13 Energy Resources Conservation and Development Commission,
14 and in consultation with other relevant agencies, shall promulgate
15 best management practices, standards, incentives, regulations, or
16 certification programs to avoid or reduce to the maximum extent
17 practicable negative environmental impacts associated with
18 implementation of the low-carbon fuel standard and to avoid or
19 minimize negative environmental impacts from the sourcing and
20 production of low-carbon fuels.

21 38579.5. The provisions of this part are severable. If any
22 provision of this part or its application is held invalid, that
23 invalidity shall not affect other provisions or applications that can
24 be given effect without the invalid provision or application.

25 ~~SEC. 3.~~

26 SEC. 4. Section 43866.5 is added to the Health and Safety
27 Code, to read:

28 43866.5. The State Energy Resources Conservation and
29 Development Commission shall by June 30, 2009 update and
30 reissue the report prepared pursuant to Section 43866 with revisions
31 and additional recommendations.

32 ~~SEC. 4.~~

33 SEC. 5. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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