

Introduced by Senator OropezaJanuary 27, 2009

An act to amend Section 38505 of, and to add Section 38515 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 104, as introduced, Oropeza. California Global Warming Solutions Act of 2006: designation of greenhouse gases.

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. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt by January 1, 2011, greenhouse gas emission limits and emission reduction measures to achieve the maximum technological feasible and cost-effective greenhouse gas emission reductions.

The act defines greenhouse gases to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

This bill would also include nitrogen trifluoride, and any other anthropogenic gas one metric ton of which makes the same or greater contribution to global warming as one metric ton of carbon dioxide, as determined by the state board pursuant to a process that the bill would create, including a procedure by which any person could petition the state board for a designation. The state board would be required to adopt regulations, including emission limits and emission reduction measures, for a gas determined to be a greenhouse gas no later than ____ years after that gas is designated as a greenhouse gas.

The bill would also express the intent of the Legislature that the state board take all feasible actions to include in the regulations to be adopted pursuant to the act by January 1, 2011, emission limits and emission reduction measures for nitrogen trifluoride.

Because a violation of the act is a crime and this bill would expand the scope of the act, this bill would create a state-mandated local program.

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. It is the intent of the Legislature that the State
2 Air Resources Board take all feasible actions to include in the
3 regulations to be adopted pursuant to Section 38562 of the Health
4 and Safety Code by January 1, 2011, emission limits and emission
5 reduction measures for nitrogen trifluoride.

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

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

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

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

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

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

4 (e) “Direct emission reduction” means a greenhouse gas
5 emission reduction action made by a greenhouse gas emission
6 source at that source.

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

11 (g) “Greenhouse gas” or “greenhouse gases” includes all of the
12 following gases: carbon dioxide, methane, nitrous oxide,
13 hydrofluorocarbons, perfluorocarbons, ~~and~~ sulfur hexafluoride,
14 *nitrogen trifluoride, and any other anthropogenic gas designated*
15 *by the state board as a greenhouse gas pursuant to Section 38515.*

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

20 (i) “Greenhouse gas emission source” or “source” means any
21 source, or category of sources, of greenhouse gas emissions whose
22 emissions are at a level of significance, as determined by the state
23 board, that its participation in the program established under this
24 division will enable the state board to effectively reduce greenhouse
25 gas emissions and monitor compliance with the statewide
26 greenhouse gas emissions limit.

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

30 (k) “Market-based compliance mechanism” means either of the
31 following:

32 (1) A system of market-based declining annual aggregate
33 emissions limitations for sources or categories of sources that emit
34 greenhouse gases.

35 (2) Greenhouse gas emissions exchanges, banking, credits, and
36 other transactions, governed by rules and protocols established by
37 the state board, that result in the same greenhouse gas emission
38 reduction, over the same time period, as direct compliance with a
39 greenhouse gas emission limit or emission reduction measure
40 adopted by the state board pursuant to this division.

1 (l) “State board” means the State Air Resources Board.

2 (m) “Statewide greenhouse gas emissions” means the total
3 annual emissions of greenhouse gases in the state, including all
4 emissions of greenhouse gases from the generation of electricity
5 delivered to and consumed in California, accounting for
6 transmission and distribution line losses, whether the electricity
7 is generated in state or imported. Statewide emissions shall be
8 expressed in tons of carbon dioxide equivalents.

9 (n) “Statewide greenhouse gas emissions limit” or “statewide
10 emissions limit” means the maximum allowable level of statewide
11 greenhouse gas emissions in 2020, as determined by the state board
12 pursuant to Part 3 (commencing with Section 38550).

13 SEC. 3. Section 38515 is added to the Health and Safety Code,
14 to read:

15 38515. (a) The state board shall designate as a greenhouse gas
16 any anthropogenic gas one metric ton of which makes the same
17 or greater contribution to global warming as one metric ton of
18 carbon dioxide, as determined by the state board.

19 (b) (1) Any person may petition the state board to designate as
20 a greenhouse gas any anthropogenic gas one metric ton of which
21 makes the same or greater contribution to global warming as one
22 metric ton of carbon dioxide. Any petition shall include data on
23 the gas to support the petition.

24 (2) Within one year after the receipt of a petition, the state board
25 shall determine the quantity of the gas that makes the same
26 contribution to global warming as one metric ton of carbon dioxide
27 and shall do the following:

28 (A) If the state board determines that one metric ton of the gas
29 makes a contribution to global warming that is equal to or greater
30 than that made by one metric ton of carbon dioxide, the state board
31 shall grant the petition and shall designate the gas as a greenhouse
32 gas.

33 (B) If the state board determines that one metric ton of the gas
34 does not make a contribution to global warming that is equal to or
35 greater than that made by one metric ton of carbon dioxide, the
36 state board shall deny the petition and shall publish a written
37 explanation of the reasons for the state board’s decision.

38 (3) The state board shall not deny a petition solely on the basis
39 of inadequate resources or time for review. If the state board
40 determines that information on the gas is not sufficient to make a

1 determination, the state board shall use all available means to
2 acquire sufficient information.

3 (c) The state board shall adopt regulations, including emission
4 limits and emission reduction measures, for a gas determined
5 pursuant to this section to be a greenhouse gas no later than ____
6 years after that gas is designated as a greenhouse gas pursuant to
7 this section. The state board shall amend the regulations adopted
8 pursuant to Section 38562, if necessary, but the deadline to adopt
9 those regulations shall not be extended by the state board.

10 (d) The state board shall adopt regulations to implement this
11 section by January 1, 2011.

12 SEC. 4. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.