An act to amend Section 38505 of, and to add Section 38573 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL’S DIGEST


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 rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The state board is authorized to adopt market-based compliance mechanisms, as defined, meeting specified requirements to be used for compliance with those regulations.

This bill would require the state board to meet specified requirements relating to verification and oversight of compliance offsets, as defined, if the state board allows the use of compliance offsets as part of a regulation adopted pursuant to the act.

SECTION 1. The Legislature finds and declares all of the following:
(a) A transition to a clean energy economy is essential for meeting the state’s long-term goals for reducing global warming pollution and can also result in substantial air quality, health, economic, and environmental benefits.
(b) The State Air Resources Board has voted to adopt a market-based regulation pursuant to the California Global Warming Solutions Act of 2006 that sets a limit on emissions of greenhouse gases by the state’s largest emitters and that allows for flexible compliance including the expansive use of offsets.
(c) Compliance offsets allow regulated entities to purchase emission reduction credits from unregulated entities in sectors that are not subject to emission limits, instead of directly reducing their own emissions or causing emissions to be reduced amongst other regulated entities in California.
(d) Offsets are inherently risky and difficult to quantify. Large portions of offsets claimed in other global warming compliance programs, such as the United Nations’ Clean Development Mechanism, have been proven to be fake.
(e) In order for compliance offsets to be of value in reducing greenhouse gas emissions and achieving the requirements of the state’s landmark climate solutions law, they should be proven to be real and additional. The integrity of any market-based regulation that includes offsets depends on strict oversight, verification, monitoring, and enforcement of the offsets program.
(f) Pursuant to Section 38597 of the Health and Safety Code, the state board has the authority to assess fees on regulated emitters of greenhouse gases to be used for the purposes of carrying out the California Global Warming Solutions Act of 2006, including oversight and enforcement of all elements of any market-based regulation.
(g) The costs of compliance offsets should accurately include the true cost of ensuring that offset protocols are developed based on the best existing science and that the compliance offsets are monitored, verified, audited, enforced, and tracked by one or more state regulatory agencies, not third-party, for-profit offset businesses.
SEC. 2. Section 38505 of the Health and Safety Code is amended to read:

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

(a) “Allowance” means an authorization to emit, during a specified year, up to not more than one ton of carbon dioxide equivalent in a specified year.

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

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

(d) “Compliance offset” means a quantified reduction in emissions of greenhouse gases in a sector different from the sector or sectors regulated by a greenhouse gas emission limit for which a market-based compliance mechanism has been adopted by the state board, that is used for compliance of that greenhouse gas emission limit by a greenhouse gas emission source regulated by that limit.

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

(f) “Direct emission reduction” means a greenhouse gas emission reduction action made by a greenhouse gas emission source at that source.

(g) “Emissions reduction measure” means programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this division, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.
“Greenhouse gas” or “greenhouse gases” includes all of the following gases:

1. Carbon dioxide.
4. Hydrofluorocarbons.
5. Perfluorocarbons.

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

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

“Leakage” means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside the state.

“Market-based compliance mechanism” means either of the following:

1. A system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases.
2. Greenhouse gas emissions exchanges, banking, credits, and other transactions, governed by rules and protocols established by the state board, that result in the same greenhouse gas emission reduction, over the same time period, as direct compliance with a greenhouse gas emission limit or emission reduction measure adopted by the state board pursuant to this division.

“State board” means the State Air Resources Board.
“Statewide greenhouse gas emissions” means the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, accounting for transmission and distribution line losses, whether the electricity is generated in state or imported. Statewide emissions shall be expressed in tons of carbon dioxide equivalents.

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

SEC. 3. Section 38573 is added to the Health and Safety Code, to read:

38573. If the state board allows the use of compliance offsets as part of a regulation adopted pursuant to this division, the state board shall ensure all of the following:

(a) That each compliance offset is permanently retired and the emission reductions represented by the compliance offset have not been claimed by another person or entity.

(b) That the compliance offset does not cause or contribute to significant adverse effects on human health or the environment, as determined by the state board.

(c) That the state board maintains authority over the eligibility of a compliance offset.

(d) That the state board has conducted an independent review of all third-party claims regarding a compliance offset before a compliance offset is credited.