

AMENDED IN ASSEMBLY JUNE 29, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 4, 2011

AMENDED IN SENATE APRIL 12, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 454

Introduced by Senator Pavley

February 16, 2011

An act to amend Section 25900 of, and to add Section 25402.11 to, the Public Resources Code, and to amend Section 399.4 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 454, as amended, Pavley. Energy efficiency standards.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission and vests with the commission jurisdiction over specified matters related to energy. Existing law requires the Attorney General, upon the request of the commission, to petition a court of competent jurisdiction to enjoin violations of law that is within the subject matter of the commission. Existing law requires the commission to prescribe, by regulation, appliance efficiency standards.

This bill would authorize the commission to establish an administrative enforcement process to enforce the above standards. The bill would provide for the assessment of civil penalties by the courts or administrative civil penalties by the commission for a violation of the above standards. The bill would require the penalties collected to be

deposited in the Appliance Efficiency Enforcement Subaccount, which this bill would establish in the Energy Resources Program Account, and would authorize the commission to expend the moneys in the subaccount, upon appropriation by the Legislature, as specified. The bill would require the court, upon granting of relief for a violation of the above standards, to award the commission the reasonable costs incurred by the commission in investigating and prosecuting the action.

(2) Existing law provides that it is the policy of this state and the intent of the Legislature that the commission administer cost-effective energy efficiency programs authorized pursuant to existing statutory authority. Existing law provides for the regulation of public utilities under the Public Utilities Act. A violation of the Public Utilities Act is a crime.

This bill would prohibit a public utility from issuing rebates or incentives for energy efficiency improvements unless the recipient of the rebate or incentive certifies that the improvement or installation ~~was done in compliance~~ *has complied* with ~~all~~ applicable permitting requirements and ~~by a licensed contractor~~ *licensing requirements*, if applicable. Because a violation of this provision would be a crime under the Public Utilities Act, the bill would impose a state-mandated local program.

(3) 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 to enact
- 2 legislation that maximizes the energy saved by the state's various
- 3 energy efficiency statutes, regulations, and programs.
- 4 SEC. 2. The Legislature finds and declares all of the following:
- 5 (a) California's appliance energy efficiency standards, specified
- 6 in Article 4 (commencing with Section 1601) of Chapter 4 of
- 7 Division 2 of Title 20 of the California Code of Regulations,
- 8 represent a state resource for accomplishing increased energy
- 9 efficiency in appliances. These standards are recognized as leading

1 the nation in energy savings and serving as one of the primary
2 energy policy tools that has resulted in California's per capita
3 energy use staying essentially constant over the past 30 years while
4 that of the rest of the United States increased steadily by nearly
5 50 percent.

6 (b) The appliance efficiency standards deliver cost-effective
7 energy savings to consumers. They are an important component
8 of the state's programs to manage its energy consumption, conserve
9 natural resources, and improve the quality of life for all its citizens.
10 The Governor and Legislature recognize that significant quantities
11 of appliances are sold and offered for sale in California that do not
12 meet the state's energy efficiency standards. The products
13 needlessly consume resources and saddle consumers with hidden
14 long-term costs after the initial purchase. Furthermore, inadequate
15 certification of appliances sold in California undermines the state's
16 ability to ensure that products sold in California meet the state's
17 efficiency standards.

18 (c) These violations result in a substantial financial loss to
19 consumers who purchase energy efficiency goods and services,
20 and represent unfair competition that dramatically impacts the
21 economic viability of legitimate businesses. It is critical for
22 California to maintain a business climate favorable to legitimate
23 competition, so that conscientious contractors, manufacturers,
24 distributors, retailers, Home Energy Rating System raters, and
25 other businesses are able to sustain their businesses against unfair
26 competition.

27 SEC. 3. Section 25402.11 is added to the Public Resources
28 Code, to read:

29 25402.11. (a) (1) The commission may adopt regulations
30 establishing an administrative enforcement process for a violation
31 of a regulation adopted pursuant to subdivision (c) of Section
32 25402 and for the assessment of an administrative civil penalty
33 not to exceed two thousand five hundred dollars (\$2,500) for each
34 violation. The process shall comply with the requirements of
35 Chapter 4 (commencing with Section 11400) and Chapter 4.5
36 (commencing with Section 11500) of Part 1 of Division 3 of Title
37 2 of the Government Code.

38 (2) In assessing the amount of an administrative penalty, the
39 commission shall consider all of the following factors:

40 (A) The nature and seriousness of the violation.

1 (B) The number of violations.
2 (C) The persistence of the violation.
3 (D) The length of time over which the violation occurred.
4 (E) The willfulness of the violation.
5 (F) The violator’s assets, liabilities, and net worth.
6 (b) If the commission finds that a violation of the regulations
7 adopted pursuant to subdivision (c) of Section 25402 has occurred
8 or is threatening to occur, the commission may refer the matter to
9 the Attorney General to petition a court to enjoin the violation.
10 The court may grant prohibitory or mandatory injunctive relief as
11 warranted by issuing a temporary restraining order, preliminary
12 injunction, or permanent injunction, and may assess a civil penalty
13 not to exceed two thousand five hundred dollars (\$2,500) for each
14 violation, considering the factors specified in paragraph (2) of
15 subdivision (a).
16 (c) Penalties collected pursuant to this section shall be deposited
17 into the Appliance Efficiency Enforcement Subaccount, which is
18 hereby established in the Energy Resources Program Account.
19 The moneys in the Appliance Efficiency Enforcement Subaccount
20 may be expended by the commission, upon appropriation by the
21 Legislature, for the education of the public regarding appliance
22 energy efficiency and for the enforcement of the regulations
23 adopted pursuant to subdivision (c) of Section 25402.
24 (d) An order imposing an administrative civil penalty shall be
25 subject to judicial review pursuant to subdivisions (a) and (b) of
26 Section 25534.2.
27 (e) A person shall not be liable for a civil penalty pursuant to
28 subdivision (b) if that person is subject to an administrative civil
29 penalty pursuant to subdivision (a).
30 (f) In a civil action brought on behalf of the commission
31 pursuant to this section, upon granting relief, the court shall award
32 to the commission the reasonable costs incurred by the commission
33 in investigating and prosecuting the action.
34 SEC. 4. Section 25900 of the Public Resources Code is
35 amended to read:
36 25900. Except as provided in Sections 25402.11 and 25531,
37 if the commission finds that any provision of this division is
38 violated or a violation is threatening to take place that constitutes
39 an emergency requiring immediate action to protect the public
40 health, welfare, or safety, the Attorney General, upon request of

1 the commission, shall petition a court to enjoin the violation. The
2 court may grant prohibitory or mandatory injunctive relief as
3 warranted by way of temporary restraining order, preliminary
4 injunction, and permanent injunction.

5 SEC. 5. Section 399.4 of the Public Utilities Code is amended
6 to read:

7 399.4. (a) (1) In order to ensure that prudent investments in
8 energy efficiency continue to be made that produce cost-effective
9 energy savings, reduce customer demand, and contribute to the
10 safe and reliable operation of the electric distribution grid, it is the
11 policy of this state and the intent of the Legislature that the
12 commission shall continue to administer cost-effective energy
13 efficiency programs authorized pursuant to existing statutory
14 authority.

15 (2) As used in this section, the term “energy efficiency” includes,
16 but is not limited to, cost-effective activities to achieve peak load
17 reduction that improve end-use efficiency, lower customers’ bills,
18 and reduce system needs.

19 (b) (1) Any rebates or incentives ~~provided by any~~ *offered by a*
20 *public utility for an energy efficiency improvement—and or*
21 *installation of energy efficient components, equipment, or*
22 *appliances in buildings shall be provided only if the recipient of*
23 *the rebate or incentive certifies that the improvement or installation*
24 ~~was done in compliance with all~~ *has complied with any* applicable
25 ~~permitting requirements and by a licensed contractor if a license~~
26 ~~is required. and, if a contractor performed the installation or~~
27 ~~improvement, that the contractor holds the appropriate license for~~
28 ~~the work performed.~~

29 (2) This subdivision does not imply or create new authority or
30 responsibility, or expand existing authority or responsibility, of
31 ~~the public utilities~~ *a public utility* for the enforcement of the
32 building energy and water efficiency standards adopted pursuant
33 to subdivision (a) or (b) of Section 25402 of the Public Resources
34 Code, or appliance efficiency standards and certification
35 requirements adopted pursuant to subdivision (c) of Section 25402
36 of the Public Resources Code.

37 (c) The commission, in evaluating energy efficiency investments
38 under its existing statutory authority, shall also ensure that local
39 and regional interests, multifamily dwellings, and energy service
40 industry capabilities are incorporated into program portfolio design

1 and that local governments, community-based organizations, and
2 energy efficiency service providers are encouraged to participate
3 in program implementation where appropriate.

4 SEC. 6. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.