SENATE BILL No. 916

Introduced by Senator Correa
(Principal coauthor: Senator Block)
(Coauthor: Senator Galgiani)

January 27, 2014

An act to add Section 12405 to, and to add Article 7.7 (commencing with Section 10409.1) to Chapter 2 of Part 2 of Division 2 of, the Public Contract Code, and to add Chapter 5.8 (commencing with Section 42359) to Part 3 of Division 30 of the Public Resources Code, relating to biosynthetic lubricants.

LEGISLATIVE COUNSEL'S DIGEST

SB 916, as introduced, Correa. Biosynthetic lubricants: procurement: sale.

(1) Existing law requires state agencies and contractors with state agencies to purchase lubricating oil, as defined, and industrial oil, as defined, containing the greatest percentage of recycled oil, unless a specified certification is made. Existing law also requires local agencies to purchase lubricating oil and industrial oil that contains recycled oil if the product meets specified conditions.

This bill would require a state agency and any person or entity contracting with, or receiving a grant from, a state agency that purchases lubricating oil, on and after January 1, 2016, to purchase only biosynthetic lubricant that meets or exceeds minimal standards for biodegradability, as defined. The bill would require the Department of General Services, by January 31, 2016, to provide language for a state agency to include in a contract or grant implementing these provisions. The bill would authorize a state agency, city, county, city and county, or district to purchase biosynthetic lubricant that meets or exceeds minimal standards for biodegradability, as specified.

(2) The California Oil Recycling Enhancement Act, administered by the Department of Resources Recycling and Recovery, imposes a charge upon the sale of lubricating oil, for deposit in the California Used Oil Recycling Fund, and continuously appropriates money from the fund to the department to provide, among other things, grants and contracts to local governments, nonprofit entities, and private entities and recycling incentives to every industrial generator, curbside collection program, and certified used oil collection center for collected or generated used lubricating oil. Existing law prohibits the sale of engine oil and lubricating oil unless the product conforms to certain specifications.

This bill would prohibit on and after January 1, 2017, the sale of lubricating oil in the state unless the lubricating oil meets certain requirements, including meeting or exceeding the minimal standards for biodegradability, as specified. The bill would authorize, on and after January 1, 2016, the Director of Resources Recycling and Recovery, in consultation with an advisory committee established by the bill as specified, to grant a one-year extension from these requirements if the director finds that the lubricating oil is not commercially available. The bill would require the department to inform local agencies and individuals of the benefits of biosynthetic lubricating oils.

(3) Existing law requires the Department of General Services, in consultation with the California Environmental Protection Agency, members of the public, industry, and public health and environmental organizations, to provide state agencies with information and assistance regarding environmentally preferable purchasing.

This bill would require the Department of General Services to maintain and update, on the department's Internet Web site, a list that contains the names of lubricating oil products that meet or exceed the minimal standards of biodegradability, as specified. The bill would require the department to transmit a copy of this list to the Office of the President of the University of California to facilitate the University of California's procurement efforts.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The United States Environmental Protection Agency (EPA) now considers pollution from all diffuse sources, including urban stormwater pollution, to be the most important source of contamination in our nation's waters.

(2) The EPA ranks urban runoff and storm sewer discharges as the second most prevalent source of water quality impairment in our nation's estuaries and the fourth most prevalent source of water quality impairment in our lakes.

(3) Although the effects of runoff on specific waters vary and are often not fully assessed, pollutants carried by runoff are known to have potentially harmful effects on drinking water supplies, recreation, fisheries, and wildlife.

(4) Among the pollutants in runoff are petroleum oil and oil byproducts, which have been shown to contain harmful constituents, including metals and polycyclic aromatic hydrocarbons.

(5) Most of California's population lives in urban and coastal areas where the water resources are highly vulnerable to, and are often severely degraded by, urban runoff.

(6) Polluted storm water poses risks to public health and the ecology of local waterways.

(7) A significant source of storm water pollution will be reduced with the introduction of new technologies, such as biosynthetic lubricants, that will improve water and air quality in the state and reduce greenhouse gas (GHG) emissions.

(8) Biosynthetic lubricants have shown GHG reductions of as much as 88 percent, as compared to similar petroleum-based synthetic lubricating oils.

(9) Used motor oil is the largest volume of hazardous waste generated in California, with approximately 150 million gallons of motor oil purchased every year, generating over 90 million gallons of used oil. However, only about 76 million gallons are actually collected, and only about 10 to 12 million gallons are actually rerefined into motor oil. Most of the used oil is shipped out-of-state and burned as fuel, producing GHG emissions.

(10) An estimated 14 to 16 million gallons of motor oil are illegally dumped, ending up in rivers, streams, and lakes, degrading drinking water supplies, and adding to storm water and coastal pollution. The remaining gallons are lost in use, either burned in the combustion chamber of an engine, or dripped onto streets and

parking lots, creating a "silent oil spill" of approximately 60 million gallons annually.

(11) Technologies now exists to supply a high-performance, biobased, biodegradable blend of lubricating oil for use in gasoline and diesel engines in passenger cars, light-duty trucks, and vans. These biosynthetic lubricating oils have performance qualities similar to or superior than other synthetic lubricants, with added environmental and public health benefits.

(12) Independent testing shows not only that biosynthetic oils are among the highest rated products for protecting engines and machinery, thereby likely improving fuel efficiency, but they are also biobased, biodegradable, and do not bioaccumulate in marine organisms.

(13) The United States Department of Agriculture's BioPreferred Program, which imposes procurement preferences on federal agencies and contractors for the purchase of biobased products, recently added a preference for motor oil, for certain diesel and gasoline engines, that have at least 25 percent biobased content.

(14) Biosynthetic lubricating oils degrade more rapidly than petroleum-based lubricants and are less toxic, thus greatly reducing environmental and public health risks. Thus, these new technologies will not only save the State of California and consumers money, but will improve air and water quality and reduce GHG emissions.

(15) Used motor oil that is recycled and rerefined into motor oil can benefit from this new technology by blending the recycled oil with high-performance, biobased, biodegradable products that have greater environmental and public health benefits.

(16) By increasing the content of biobased products in lubricating oils, California taxpayers will benefit from lower costs of complying with the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

(b) The Legislature further finds and declares all of the following:

(1) This act would implement a policy of the state to require state agencies, when servicing fleet vehicles, to request the use of biosynthetic lubricating oil, when available.

(2) The use of biosynthetic lubricating oil, as provided by this act, will further the state's policy of reducing the state fleet's petroleum consumption and protecting the environment.

(3) The use of biosynthetic lubricating oil, as provided by this act, will help reduce overall petroleum consumption and aid the state in achieving its goals of reducing GHG emissions.

(4) Vehicles using synthetic and biosynthetic lubricating oils require fewer oil changes, extending oil change intervals and thus reducing the quantity of lubricating oil used over the life of the vehicle.

(5) While the cost of synthetic and biosynthetic lubricating oil maybe higher than conventional motor oil, when balanced against the longer oil change interval, using synthetic and biosynthetic oils becomes less expensive in the long term.

(6) The benefits of longer intervals between oil changes, the reduced consumption of lubricating oil over the life of the vehicle, improved fuel efficiency, the reduction in GHG emissions, and the benefits to public health and the environment make biosynthetic lubricating oil a cost-effective alternative to petroleum-based lubricating oil.

SEC. 2. Article 7.7 (commencing with Section 10409.1) is added to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, to read:

Article 7.7. Biosynthetic Lubricant Procurement

10409.1. The following definitions govern the construction of this article:

(a) “ASTM” means the American Society for Testing and Materials.

(b) “Biobased content” means the amount of biobased carbon within a biosynthetic lubricant, expressed as a percent of total weight (mass) of the organic carbon within the product, as determined by using the ASTM D6866-12 (standard test methods for determining the biobased content of solid, liquid, and gaseous samples using radiocarbon analysis), as that test method read on January 1, 2013.

(c) “Biobased product” means a product that is any of the following:

(1) Composed, in whole or in significant part, of biological products, including renewable agricultural materials, algae, and forestry materials.

(2) An intermediate ingredient or feedstock material or compound made in whole or in significant part from biological products, including renewable agricultural materials, including plant, animal, and marine materials, including algae, or forestry materials, that are subsequently used to make a more complex compound or product.

(d) (1) "Biodegradable" means a substance that meets one of the following requirements, under the conditions specified in paragraph (2):

(A) The substance can demonstrate the removal of at least 70 percent of dissolved organic carbon.

(B) The substance produces at least 60 percent theoretical carbon dioxide.

(C) The substance consumes at least 60 percent of the theoretical oxygen demand.

(2) The substance meets the requirements specified in paragraph (1) within 28 days of use, as determined under one of the following test methods, as those test methods read on January 1, 2013:

(A) OECD Test No. 301 A-F.

(B) OECD Test No. 306.

(C) OECD Test No. 310.

(D) ASTM D5862-2006 standard test method.

(E) ASTM D7373-2007 standard test method

(e) "Biosynthetic lubricant" means a lubricating oil that contains a biobased product.

(f) "Lubricating oil" means oil intended for use in an internal combustion gasoline or diesel engine used in passenger cars, light-duty trucks, or vans.

(g) "Minimal standards for biodegradability" means that the amount of biobased content within the lubricating oil is not less than 25 percent and that the biobased content is biodegradable.

(h) "OECD" means the Organisation for Economic Co-operation and Development.

(i) "Procuring agency" means any state agency or any person or entity contracting with, or receiving a grant from, that agency.

10409.2. (a) (1) On and after January 1, 2016, every procuring agency that purchases lubricating oil shall only purchase biosynthetic lubricant that meets or exceeds minimal standards for biodegradability.

(2) Before January 31, 2016, the Department of General Services shall provide language for a state agency to include in a contract or grant that implements the provisions of this subdivision.

(b) On and after January 1, 2017, every procuring agency shall purchase lubricating oil from a seller that is in compliance with Section 42359.1 of the Public Resources Code.

10409.3. Notwithstanding any other law, when procuring lubricating oil for gasoline or diesel engines used in passenger cars, light trucks, and vans, a state agency, city, county, city and county, and district, including a school district and a community college district, may purchase biosynthetic lubricants that have a biobased content that meets or exceeds minimal standards for biodegradability.

SEC. 3. Section 12405 is added to the Public Contract Code, to read:

12405. (a) The Department of General Services shall maintain and update, on the department's "Buying Green" Internet Web site, a list that contains the names of lubricating oil products that meet or exceed the minimal standards for biodegradability, as defined in Section 10409.1.

(b) The Department of General Services shall transmit a copy of the list described in subdivision (a) to the Office of the President of the University of California to facilitate the University of California's procurement efforts.

SEC. 4. Chapter 5.8 (commencing with Section 42359) is added to Part 3 of Division 30 of the Public Resources Code, to read:

Chapter 5.8. Biosynthetic Lubricant

42359. The following definitions govern the construction of this chapter:

(a) "ASTM" means the American Society for Testing and Materials.

(b) "Biobased content" means the amount of biobased carbon within a biosynthetic lubricant, expressed as a percent of total weight (mass) of the organic carbon within the product, as determined by using the ASTM D6866-12 (standard test methods for determining the biobased content of solid, liquid, and gaseous samples using radiocarbon analysis), as that test method read on January 1, 2013.

(c) "Biobased product" means a product that is any of the following:

(1) Composed, in whole or in significant part, of biological products, including renewable agricultural materials, algae, and forestry materials.

(2) An intermediate ingredient or feedstock material or compound made in whole or in significant part from biological products, including renewable agricultural materials, including plant, animal, and marine materials, including algae, or forestry materials, that are subsequently used to make a more complex compound or product.

(d) (1) "Biodegradable" means a substance that meets one of the following requirements, under the conditions specified in paragraph (2):

(A) The substance can demonstrate the removal of at least 70 percent of dissolved organic carbon.

(B) The substance produces at least 60 percent theoretical carbon dioxide.

(C) The substance consumes at least 60 percent of the theoretical oxygen demand.

(2) The substance meets the requirements specified in paragraph (1) within 28 days of use, as determined under one of the following test methods, as those test methods read on January 1, 2013:

(A) OECD Test No. 301 A-F.

(B) OECD Test No. 306.

(C) OECD Test No. 310.

(D) ASTM D5862-2006 standard test method.

(E) ASTM D7373-2007 standard test method.

(e) "Biosynthetic lubricant" means a lubricating oil that contains a biobased product.

(f) "Lubricating oil" means oil intended for use in an internal combustion gasoline or diesel engine used in passenger cars, light-duty trucks, or vans.

(g) "Minimal standards for biodegradability" means that the amount of biobased content within the lubricating oil is not less than 25 percent and that the biobased content is biodegradable.

(h) "OECD" means the Organisation for Economic Co-operation and Development.

42359.1. Notwithstanding Article 7 (commencing with Section 13460) of Chapter 14 of Division 5 of the Business and Professions

Code, on and after January 1, 2017, a person shall not sell lubricating oil in the state unless the lubricating oil does both of the following:

(a) Meets or exceeds minimal standards for biodegradability, as defined in Section 42359.

(b) Is at the time of the sale certified for use by the American Petroleum Institute's Engine Oil Licensing Certification System.

42359.2. On and after January 1, 2016, the director, in consultation with the advisory committee established pursuant to Section 42359.3, may grant a one-year delay of the requirements imposed pursuant to Section 42359.1 if the director finds that the lubricating oil is not commercially available in the state. In deciding whether to grant or deny an extension, the director shall consider, but shall not be bound by, the recommendation of the advisory committee.

42359.3. The director shall establish an advisory committee of nine members appointed by the director. The advisory committee, based upon information submitted to the committee by lubricating oil manufacturers, wholesalers, and retailers, shall consider and recommend approval or denial of a delay pursuant to Section 42359.2. The advisory committee shall include representation from the petroleum industry, biosynthetic fuel and oil industry, automobile manufacturers and servicing industry, local government storm water management agencies, and public interest groups.

42359.4. The department, through the use of social media, shall inform local agencies and individuals of the benefits of biosynthetic lubricating oils and encourage the use of biosynthetic lubricants for their fleets or vehicles.

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