

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 232

Introduced by Assembly Member ~~Oberholte~~ *Mark Stone*

(~~Coauthors: Assembly Members Alejo, Bigelow, Dodd, Gallagher, Gipson, Gordon, Gray, Lackey, Levine, Mayes, Melendez, Olsen, Quirk, Waldron, Wilk, and Wood~~)

(~~Coauthors: Senators Hill, Liu, McGuire, Morrell, Nielsen, and Roth~~)

February 4, 2015

~~An act to amend Section 4222 of, and to amend, repeal, and add Sections 4213 and 4220 of, the Public Resources Code, relating to forestry and fire prevention, and declaring the urgency thereof, to take effect immediately. An act to add Section 21204 to the Business and Professions Code, to repeal Section 7873 of the Labor Code, and to amend Section 25354 of, and to add Sections 25355, 25359, 25360, 25361, and 25367 to, the Public Resources Code, relating to energy resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 232, as amended, ~~Oberholte~~ *Mark Stone*. ~~State responsibility areas: fire prevention fees: Petroleum: information reports: turnarounds and shutdowns.~~

(1) Existing law, the Petroleum Industry Information Reporting Act of 1980, requires refiners, among others, to provide periodic reports to the State Energy Resources Conservation and Development Commission containing designated information regarding petroleum

supplies and price, including monthly California weighted average prices and sales volumes for specified motor fuels and oils, as specified. Existing law authorizes any person required to submit this information to request that specific information be held in confidence. The act requires the commission to gather, analyze, and interpret the reported information related to the supply and price of petroleum products and to publish at the end of each preceding quarter a summary, analysis, and interpretation of that information.

This bill would instead require each refiner to report monthly to the commission daily prices and sales volumes at all locations in California for those specified motor fuels and oils and also the occurrence of all turnarounds, as defined, and all unplanned shutdowns, as specified. This information would not be subject to confidentiality provisions and would be subject to public disclosure within 24 hours of receipt by the commission.

The bill would require a refiner, on or before January 1, 2017, and annually thereafter, to submit information to the commission regarding planned turnarounds for all refinery process units and plants for the following calendar year. On the date of a planned turnaround, the bill would require the commission to verify that a refiner has the amount of gasoline inventory that was previously reported to the commission and to report any discrepancy to the Attorney General and the Legislature. The bill would require a refiner to report to the commission within 24 hours of any undisclosed turnaround or unplanned shutdown and would require this report to contain specified information and be signed under penalty of perjury by an officer or director of the entity that owns the refinery. The bill would also require a refiner to report to the commission its quarterly profits from operations and the amount of annual taxes paid, as provided. The bill would require each refiner and major marketer, as defined, to report to the commission within 24 hours regarding purchases, sales, or exchanges of petroleum products measuring 2,500 barrels or more, as specified. The information submitted pursuant to these provisions would be subject to public disclosure within 24 hours of receipt by the commission.

This bill would require the commission to publish on its Internet Web site specified information reported by a refiner, including the information described above, and aggregated information on gasoline exports, as specified. The bill would authorize the commission to charge refiners a reasonable fee to cover certain of the commission's costs under the bill, to be deposited into the Energy Resources Programs

Account and continuously appropriated to the commission for those purposes.

Commencing on January 1, 2017, this bill would require every refiner to submit an annual inventory supply plan to the commission for review and approval. The bill would authorize the commission to require a refiner to revise its inventory supply plan or maintenance schedule in certain circumstances. The bill would require this inventory supply plan to be signed under penalty of perjury by an officer or director of the entity that owns the refinery. The bill would require the commission to impose an administrative fine, as provided, on a refiner that fails to submit and obtain approval of an inventory supply plan, fails to revise an inventory supply plan as directed by the commission, or fails to follow its approved plan. The information submitted pursuant to these provisions would be subject to public disclosure within 24 hours of receipt by the commission.

Because the bill would expand the crime of perjury, it would impose a state-mandated local program.

(2) Existing law makes it unlawful for certain refiners, distributors, manufacturers, and transporters of motor vehicle fuels or oils engaged in business in this state, either directly or indirectly, to engage in price discrimination, as specified. Existing law authorizes any person injured by a violation of these provisions to bring an action to recover treble damages and attorney's fees.

This bill would, in addition, make it unlawful for any refiner, distributor, manufacturer, or transporter of motor vehicle fuels or oils engaged in business in this state, either directly or indirectly, to knowingly engage in any act, practice, or course of business, to distort or attempt to distort, the market conditions of any motor vehicle fuels or oils, or to intentionally fail to state a material fact that distorts or is likely to distort those market conditions at a time of heightened demand. In addition to any award of damages, the bill would require a violation of these provisions to be punished by disgorgement of all moneys, property, and any proceeds derived directly or indirectly from the prohibited conduct, which would be paid by order of the court to the state and deposited into the General Fund.

(3) Existing law requires every petroleum refinery employer to, every September 15, submit to the Division of Occupational Safety and Health a full schedule for the following calendar year of planned turnarounds, as defined.

Existing law, except as specified, prohibits the division from releasing to the public any information submitted to the division pursuant to these provisions that is designated as a trade secret, as defined. Existing law requires the division to notify a petroleum refinery employer in writing of a request for the release of information to the public that includes information that the petroleum refinery employer has notified the division is a trade secret, as provided. Existing law authorizes an employer to seek a court order prohibiting public disclosure. Existing law establishes misdemeanor penalties for knowingly and willfully disclosing these trade secrets.

This bill would repeal the latter provisions dealing with trade secrets.

(4) 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.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires the state to have the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas, as defined. Existing law requires that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area. Existing law requires that the fee be collected annually by the State Board of Equalization in accordance with specified procedures, and specifies that the annual fee shall be due and payable 30 days from the date of assessment by the state board. Existing law authorizes a petition for redetermination of the fee to be filed within 30 days after service of a notice of determination, as specified.~~

~~This bill would, for a period of 5 years, extend the time when the annual fire prevention fee is due and payable from 30 to 60 days from the date of assessment by the State Board of Equalization and authorize the petition for redetermination to be filed within 60 days after service of the notice of determination, as specified.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: ~~no~~yes. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

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

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Open the Books Act of 2016.*

3 *SEC. 2. Section 21204 is added to the Business and Professions*
4 *Code, to read:*

5 21204. (a) *Notwithstanding Section 21201, it shall be unlawful*
6 *for any refiner, distributor, manufacturer, or transporter of motor*
7 *vehicle fuels or oils engaged in business in this state, either directly*
8 *or indirectly, to do either of the following:*

9 (1) *Knowingly engage in any act, practice, or course of business,*
10 *including the making of any untrue statement of material fact, for*
11 *purposes of distorting, or attempting to distort, the market*
12 *conditions of any motor vehicle fuels or oils.*

13 (2) *Intentionally fail to state a material fact that under the*
14 *circumstances renders a statement made by the refiner, distributor,*
15 *manufacturer, or transporter misleading, provided that the*
16 *omission distorts or is likely to distort market conditions for any*
17 *motor vehicle fuels or oils.*

18 (b) *This section shall be liberally construed to apply to acts*
19 *that, among other things, are taken for the purpose of*
20 *manipulating, or attempting to manipulate, the price of motor*
21 *vehicle fuels or oils, including, but not limited to, unnecessarily*
22 *reducing the supply or availability of those products at a time of*
23 *heightened demand.*

24 (c) *Any person injured by a violation of this section may bring*
25 *an action for the recovery of damages pursuant to Section 21202.*

26 (d) *In addition to any award of damages, a violation of this*
27 *section shall be punished by disgorgement of all moneys, property*
28 *or property interests, and any proceeds traceable thereto, that*
29 *were derived directly or indirectly from conduct prohibited by this*
30 *section, or acquired or maintained directly or indirectly through*
31 *conduct prohibited by this section. All moneys and proceeds from*
32 *property ordered disgorged pursuant to this subdivision shall be*
33 *paid by order of the court to the state and deposited into the*
34 *General Fund.*

35 *SEC. 3. Section 7873 of the Labor Code is repealed.*

36 ~~7873. (a) As used in this section, "trade secret" means a trade~~
37 ~~secret as defined in subdivision (d) of Section 6254.7 of the~~
38 ~~Government Code or Section 1061 of the Evidence Code, and shall~~

1 include the schedule submitted to the division pursuant to
2 subdivision (b) of Section 7872 of this code, and the scheduling,
3 duration, layout, configuration, and type of work to be performed
4 during a turnaround. Upon completion of a turnaround, the
5 scheduling and duration of that turnaround shall no longer be
6 considered a trade secret. The wages, hours, benefits, job
7 classifications, and training standards for employees performing
8 work for petroleum refinery employers is not a trade secret.

9 (b) (1) If a petroleum refinery employer believes that
10 information submitted to the division pursuant to Section 7872
11 may involve the release of a trade secret, the petroleum refinery
12 employer shall nevertheless provide this information to the
13 division. The petroleum refinery employer may, at the time of
14 submission, identify all or a portion of the information submitted
15 to the division as trade secret and, to the extent feasible, segregate
16 records designated as trade secret from the other records.

17 (2) Subject to subdivisions (c), (d), and (e), the division shall
18 not release to the public any information designated as a trade
19 secret by the petroleum refinery employer pursuant to paragraph
20 (1).

21 (c) (1) Upon the receipt of a request for the release of
22 information to the public that includes information that the
23 petroleum refinery employer has notified the division is a trade
24 secret pursuant to paragraph (1) of subdivision (b), the division
25 shall notify the petroleum refinery employer in writing of the
26 request by certified mail, return receipt requested.

27 (2) The division shall release the requested information to the
28 public, unless both of the following occur:

29 (A) Within 30 days of receipt of the notice of the request for
30 information, the refinery petroleum employer files an action in an
31 appropriate court for a declaratory judgment that the information
32 is subject to protection under subdivision (b) and promptly notifies
33 the division of that action.

34 (B) Within 120 days of receipt of the notice of the request for
35 information, the refinery petroleum employer obtains an order
36 prohibiting disclosure of the information to the public and promptly
37 notifies the division of that action.

38 (3) This subdivision shall not be construed to allow a petroleum
39 refinery employer to refuse to disclose the information required
40 pursuant to this section to the division.

1 ~~(d) (1) Except as provided in subdivision (c), any information~~
2 ~~that has been designated as a trade secret by a petroleum refinery~~
3 ~~employer shall not be released to any member of the public, except~~
4 ~~that such information may be disclosed to other officers or~~
5 ~~employees of the division when relevant in any proceeding of the~~
6 ~~division.~~

7 ~~(2) If the person requesting the release of the information or the~~
8 ~~petroleum refinery employer files an action to order or prohibit~~
9 ~~disclosure of trade secret information, the person instituting the~~
10 ~~proceeding shall name the person or the petroleum refinery~~
11 ~~employer as a real party in interest.~~

12 ~~(A) The petroleum refinery employer filing an action pursuant~~
13 ~~to paragraph (2) of subdivision (c) shall provide notice of the action~~
14 ~~to the person requesting the release of the information at the same~~
15 ~~time that the defendant in the action is served.~~

16 ~~(B) The person filing an action to compel the release of~~
17 ~~information that includes information that the petroleum refinery~~
18 ~~employer has notified the division is a trade secret pursuant to~~
19 ~~paragraph (1) of subdivision (b) shall provide notice of the action~~
20 ~~to the petroleum refinery employer that submitted the information~~
21 ~~at the same time that the defendant in the action is served.~~

22 ~~(3) The court shall award costs and reasonable attorneys' fees~~
23 ~~to the party that prevails in litigation filed pursuant to this section.~~
24 ~~The public agency shall not bear the court costs for any party~~
25 ~~named in litigation filed pursuant to this section.~~

26 ~~(e) This section shall not be construed to prohibit the exchange~~
27 ~~of trade secrets between local, state, or federal public agencies or~~
28 ~~state officials when those trade secrets are relevant and reasonably~~
29 ~~necessary to the exercise of their authority.~~

30 ~~(f) An officer or employee of the division who, by virtue of that~~
31 ~~employment or official position, has possession of, or has access~~
32 ~~to, trade secret information, and who, knowing that disclosure of~~
33 ~~the information to the general public is prohibited by this section,~~
34 ~~knowingly and willfully discloses the information in any manner~~
35 ~~to a person he or she knows is not entitled to receive it, is guilty~~
36 ~~of a misdemeanor. A contractor with the division and an employee~~
37 ~~of the contractor, who has been furnished information as authorized~~
38 ~~by this section, shall be considered an employee of the division~~
39 ~~for purposes of this section.~~

1 *SEC. 4. Section 25354 of the Public Resources Code is*
2 *amended to read:*

3 25354. (a) Each refiner and major marketer shall submit
4 information each month to the commission in ~~such~~ *the* form and
5 to the extent ~~as that~~ the commission prescribes pursuant to this
6 section. The information shall be submitted within 30 days after
7 the end of each monthly reporting period and shall include the
8 following:

9 (1) (A) Refiners shall report, for each of their refineries,
10 feedstock inputs, origin of petroleum receipts, imports of finished
11 petroleum products and blendstocks, by type, including the source
12 of those imports, exports of finished petroleum products and
13 blendstocks, by type, including the destination of those exports,
14 refinery outputs, refinery stocks, and finished product supply and
15 distribution, including all gasoline sold unbranded by the refiner,
16 blender, or importer.

17 (B) *Refiners shall also report, for each of their refineries, the*
18 *occurrence of all turnarounds within the meaning of Section 7872*
19 *of the Labor Code and all unplanned shutdowns. The information*
20 *reported pursuant to this paragraph shall include any changes to*
21 *the information reported pursuant to Section 25355, including any*
22 *changes to the scope or duration of any turnaround or unplanned*
23 *shutdown and an explanation of the cause or causes of the change.*

24 (2) Major marketers shall report on petroleum product receipts
25 and the sources of these receipts, inventories of finished petroleum
26 products and blendstocks, by type, distributions through branded
27 and unbranded distribution networks, and exports of finished
28 petroleum products and blendstocks, by type, from the state.

29 (b) Each major oil producer, refiner, marketer, oil transporter,
30 and oil storer shall annually submit information to the commission
31 in ~~such~~ *the* form and to the extent ~~as that~~ the commission prescribes
32 pursuant to this section. The information shall be submitted within
33 30 days after the end of each reporting period, and shall include
34 the following:

35 (1) Major oil transporters shall report on petroleum by reporting
36 the capacities of each major transportation system, the amount
37 transported by each system, and inventories thereof. The
38 commission may prescribe rules and regulations that exclude
39 pipeline and transportation modes operated entirely on property
40 owned by major oil transporters from the reporting requirements

1 of this section if the data or information is not needed to fulfill the
2 purposes of this chapter. The provision of the information shall
3 not be construed to increase or decrease any authority the Public
4 Utilities Commission may otherwise have.

5 (2) Major oil storers shall report on storage capacity, inventories,
6 receipts and distributions, and methods of transportation of receipts
7 and distributions.

8 (3) Major oil producers shall, with respect to thermally enhanced
9 oil recovery operations, report annually by designated oil field,
10 the monthly use, as fuel, of crude oil and natural gas.

11 (4) Refiners shall report on facility capacity, and utilization and
12 method of transportation of refinery receipts and distributions.

13 (5) Major oil marketers shall report on facility capacity and
14 methods of transportation of receipts and distributions.

15 (c) Each person required to report pursuant to subdivision (a)
16 shall submit a projection each month of the information to be
17 submitted pursuant to subdivision (a) for the quarter following the
18 month in which the information is submitted to the commission.

19 (d) In addition to the data required under subdivision (a), each
20 integrated oil refiner (produces, refines, transports, and markets
21 in interstate commerce) who supplies more than 500 branded retail
22 outlets in California shall submit to the commission an annual
23 industry forecast for Petroleum Administration for Defense, District
24 V (covering Arizona, Nevada, Washington, Oregon, California,
25 Alaska, and Hawaii). The forecast shall include the information
26 to be submitted under subdivision (a), and shall be submitted by
27 March 15 of each year. The commission may require
28 California-specific forecasts. However, those forecasts shall be
29 required only if the commission finds them necessary to carry out
30 its responsibilities.

31 (e) The commission may by order or regulation modify the
32 reporting period as to any individual item of information setting
33 forth in the order or regulation its reason for so doing.

34 (f) The commission may request additional information as
35 necessary to perform its responsibilities under this chapter.

36 (g) Any person required to submit information or data under
37 this chapter, ~~in lieu thereof,~~ *instead,* may submit a report made to
38 any other governmental agency, if:

39 (1) The alternate report ~~or reports contain~~ *contains* all of the
40 information or data required by specific request under this chapter.

1 (2) The person clearly identifies the specific request to which
2 the alternate report is responsive.

3 (h) Each refiner shall submit to the commission, within 30 days
4 after the end of each monthly reporting period, all of the following
5 information in ~~such~~ *the* form and ~~to the extent~~ *as that* the
6 commission prescribes:

7 (1) ~~Monthly California-weighted average Daily~~ prices and sales
8 volumes ~~of at all locations in California for~~ finished leaded regular,
9 unleaded regular, and premium motor gasoline sold through
10 company-operated retail outlets, to other end-users, and to
11 wholesale ~~customers~~: *customers, including, but not limited to, the*
12 *dealer tank wagon price or rack zone pricing.*

13 (2) ~~Monthly California-weighted average Daily~~ prices and sales
14 volumes *at all locations in California* for residential sales,
15 commercial and institutional sales, industrial sales, sales through
16 company-operated retail outlets, sales to other end-users, and
17 wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

18 (3) ~~Monthly California-weighted average Daily~~ prices and sales
19 volumes *at all locations in California* for retail sales and wholesale
20 sales of No. 1 distillate, kerosene, finished aviation gasoline,
21 kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent
22 or less sulfur, residual fuel oil with greater than 1 percent sulfur
23 and consumer grade propane.

24 (i) (1) ~~Beginning the first week after the effective date of the~~
25 ~~act that added this subdivision, and each week thereafter, an~~ *An*
26 oil refiner, oil producer, petroleum product transporter, petroleum
27 product marketer, petroleum product pipeline operator, and
28 terminal operator, as designated by the commission, shall submit
29 a *weekly* report in the form and extent as the commission prescribes
30 pursuant to this section. The commission may determine the form
31 and extent necessary by order or by regulation.

32 (2) A report may include any of the following information:

33 (A) Receipts and inventory levels of crude oil and petroleum
34 products at each refinery and terminal location.

35 (B) Amount of gasoline, diesel, jet fuel, blending components,
36 and other petroleum products imported and exported.

37 (C) Amount of gasoline, diesel, jet fuel, blending components,
38 and other petroleum products transported intrastate by marine
39 vessel.

1 (D) Amount of crude oil imported, including information
2 identifying the source of the crude oil.

3 (E) The regional average of invoiced retailer buying price. This
4 subparagraph does not either preclude or augment the current
5 authority of the commission to collect additional data under
6 subdivision (f).

7 (3) This subdivision is intended to clarify the commission's
8 existing authority under subdivision (f) to collect specific
9 information. This subdivision does not either preclude or augment
10 the existing authority of the commission to collect information.

11 (j) *Notwithstanding Section 25364 or any other law, information*
12 *reported under subparagraph (B) of paragraph (1) of subdivision*
13 *(a) or under subdivision (h) shall be subject to public disclosure*
14 *within 24 hours of receipt by the commission.*

15 *SEC. 5. Section 25355 is added to the Public Resources Code,*
16 *to read:*

17 25355. (a) *On or before January 1, 2017, and on or before*
18 *January 1 annually thereafter, a refiner shall submit to the*
19 *commission information on both of the following in the form and*
20 *to the extent that the commission prescribes:*

21 (1) *A full schedule of all planned turnarounds for all refinery*
22 *process units or plants for the following calendar year and a*
23 *description of the scope and expected duration of each turnaround.*

24 (2) *The amount of gasoline inventory anticipated in advance of*
25 *each planned turnaround at each refinery process unit or plant.*

26 (b) *A refiner shall report to the commission within 24 hours of*
27 *any turnaround not previously disclosed under subdivision (a) or*
28 *any unplanned shutdown that occurs in a refinery process unit or*
29 *plant. The report shall be in the form that the commission*
30 *prescribes and shall include a description of the refinery process*
31 *unit or plant involved in the shutdown, the expected duration of*
32 *the shutdown, and the reasons for the shutdown. The report shall*
33 *be signed under penalty of perjury by an officer or director of the*
34 *entity that owns the refinery.*

35 (c) *For purposes of this section, "turnaround" has the same*
36 *meaning as defined in Section 7872 of the Labor Code.*

37 (d) *Notwithstanding any other law, information reported under*
38 *this section shall be subject to public disclosure within 24 hours*
39 *of receipt by the commission.*

1 SEC. 6. Section 25359 is added to the Public Resources Code,
2 to read:

3 25359. (a) Notwithstanding any law, each refiner shall report
4 to the commission, within seven days of the refiner's most recent
5 quarterly report to shareholders, in the form and to the extent the
6 commission prescribes, the amount of profits the refiner generated
7 from the operations of its refineries operating in this state during
8 the period covered by the quarterly report to shareholders.

9 (b) Notwithstanding any other law, each refiner shall report to
10 the commission, within seven days of each annual report by the
11 refiner to shareholders, in the form and to the extent the
12 commission prescribes, the amount of taxes the refiner paid to this
13 state in the most recent tax year.

14 (c) Notwithstanding any other law, information reported under
15 this section shall be subject to public disclosure within 24 hours
16 of receipt by the commission.

17 SEC. 7. Section 25360 is added to the Public Resources Code,
18 to read:

19 25360. (a) Notwithstanding any law, each refiner and major
20 marketer shall report to the commission information regarding
21 all purchases, sales, or exchanges of petroleum products measuring
22 2,500 barrels or above in this state within 24 hours of each
23 transaction. For each transaction of this type, the refiner or major
24 marketer shall submit to the commission all of the following
25 information in the form and to the extent that the commission
26 prescribes:

27 (1) The type of product traded.

28 (2) All parties involved in the transaction.

29 (3) The location of the product at the time of transaction.

30 (4) The terms of the transaction.

31 (5) The means of transportation.

32 (b) Notwithstanding any other law, information reported under
33 this section shall be subject to public disclosure within 24 hours
34 of receipt by the commission.

35 (c) For purposes of this section, and notwithstanding Section
36 25126, "major marketer" means a person who sells at least 2,500
37 barrels of oil per calendar year, or a person who sells an amount
38 less than 2,500 barrels of oil per calendar year that the commission
39 determines has a major effect on energy supplies.

1 SEC. 8. Section 25361 is added to the Public Resources Code,
2 to read:

3 25361. (a) Notwithstanding Section 25364 or any other law,
4 the commission shall publish on its Internet Web site the
5 information submitted pursuant to subparagraph (B) of paragraph
6 (1) of subdivision (a) of Section 25354, and Sections 25355, 25359,
7 and 25360.

8 (b) The commission shall publish on its Internet Web site on a
9 monthly basis both of the following:

10 (1) Aggregated information on gasoline exports, including the
11 destination of those exports.

12 (2) Information submitted pursuant to subdivision (h) of Section
13 25354 in the aggregate and in detail by refinery.

14 (c) On the date of a planned turnaround, the commission shall
15 verify that a refiner has the amount of gasoline inventory that was
16 reported pursuant to paragraph (2) of subdivision (a) of Section
17 25355. The commission shall report any discrepancy between the
18 reported amount and actual amount of gasoline inventory to the
19 Attorney General and to the Legislature.

20 (d) The commission may charge and collect from refiners a
21 reasonable fee to cover the cost of performing its duties required
22 by this section. Moneys received by the commission pursuant to
23 this subdivision shall be deposited in the Energy Resources
24 Programs Account and, notwithstanding Section 13340 of the
25 Government Code, are continuously appropriated for expenditure
26 by the commission for purposes of performing those duties.

27 SEC. 9. Section 25367 is added to the Public Resources Code,
28 to read:

29 25367. (a) Commencing on January 1, 2017, and each year
30 thereafter, every refiner shall submit an annual inventory supply
31 plan to the commission for review and approval. The plan shall
32 be in the form and contain the information required by the
33 commission and, at a minimum, shall include all of the following:

34 (1) A description of how the refiner will ensure a sufficient
35 inventory to meet anticipated demand, based on the previous year's
36 consumption, including through reserves, imports, trades, or other
37 arrangements that will allow the necessary supply to come to
38 market.

39 (2) The minimum working inventory the refiner plans to keep
40 on hand, averaged on a monthly basis for each month of the year,

1 *which will comport with demand projection and production*
2 *schedules.*

3 *(3) A crisis plan detailing the refiner's planned response for*
4 *dealing with unplanned outages at each of its refineries, and*
5 *including a contingency production, import, strategic inventory,*
6 *or trading plan to ensure adequate supplies to meet monthly*
7 *demand.*

8 *(b) The commission shall only approve a refiner's inventory*
9 *supply plan if the commission is satisfied that the plan sets forth*
10 *sufficient arrangements to ensure a sufficient inventory to meet*
11 *annual demand. The commission may, at any time, require a refiner*
12 *to revise its inventory supply plan or maintenance schedule if the*
13 *commission determines that the contents of the plan or schedule*
14 *do not provide adequate arrangements to ensure a sufficient*
15 *inventory or production to meet demand.*

16 *(c) The commission shall, upon notice and hearing consistent*
17 *with due process, impose an administrative fine on a refiner that*
18 *fails to submit and obtain approval of an inventory supply plan as*
19 *required by this section, fails to revise an inventory supply plan*
20 *as directed by the commission, or fails to follow its approved plan.*
21 *The amount of the administrative fine shall be not less than fifty*
22 *thousand dollars (\$50,000) and not more than one million dollars*
23 *(\$1,000,000) per day during which the refiner operates without*
24 *an approved inventory supply plan or does not follow its approved*
25 *plan. In assessing the fine, the commission shall take into account*
26 *the intentionality and severity of the refiner's action.*

27 *(d) The inventory supply plan submitted pursuant to subdivision*
28 *(a) shall be signed under penalty of perjury by an officer or*
29 *director of the entity that owns the refiner.*

30 *(e) Notwithstanding any other law, information reported under*
31 *this section shall be subject to public disclosure within 24 hours*
32 *of receipt by the commission.*

33 *SEC. 10. The provisions of this act are severable. If any*
34 *provision of this act or its application is held invalid, that invalidity*
35 *shall not affect other provisions or applications that can be given*
36 *effect without the invalid provision or application.*

37 *SEC. 11. No reimbursement is required by this act pursuant*
38 *to Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

6 *SEC. 12. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety within*
8 *the meaning of Article IV of the Constitution and shall go into*
9 *immediate effect. The facts constituting the necessity are:*

10 *In order to provide consumers transparency at a time when oil*
11 *prices are at an historic low and the difference between those*
12 *prices and gas prices is at an historic high, it is necessary that*
13 *this act take effect immediately.*

14 ~~SECTION 1. Section 4213 of the Public Resources Code is~~
15 ~~amended to read:~~

16 ~~4213. (a) (1) The fire prevention fee imposed pursuant to~~
17 ~~Section 4212 shall be collected annually by the State Board of~~
18 ~~Equalization in accordance with the Fee Collection Procedures~~
19 ~~Law (Part 30 (commencing with Section 55001) of Division 2 of~~
20 ~~the Revenue and Taxation Code).~~

21 ~~(2) Notwithstanding the appeal provisions in the Fee Collection~~
22 ~~Procedures Law, a determination by the department that a person~~
23 ~~is required to pay a fire prevention fee, or a determination by the~~
24 ~~department regarding the amount of that fee, is subject to review~~
25 ~~under Article 2 (commencing with Section 4220) and is not subject~~
26 ~~to a petition for redetermination by the State Board of Equalization.~~

27 ~~(3) (A) Notwithstanding the refund provisions in the Fee~~
28 ~~Collection Procedures Law, the State Board of Equalization shall~~
29 ~~not accept any claim for refund that is based on the assertion that~~
30 ~~a determination by the department improperly or erroneously~~
31 ~~calculated the amount of the fire prevention fee, or incorrectly~~
32 ~~determined that the person is subject to that fee, unless that~~
33 ~~determination has been set aside by the department or a court~~
34 ~~reviewing the determination of the department.~~

35 ~~(B) If the department or a reviewing court determines that a~~
36 ~~person is entitled to a refund of all or part of the fire prevention~~
37 ~~fee, the person shall make a claim to the State Board of~~
38 ~~Equalization pursuant to Chapter 5 (commencing with Section~~
39 ~~55221) of Part 30 of Division 2 of the Revenue and Taxation Code.~~

1 ~~(b) The annual fire prevention fee shall be due and payable 60~~
2 ~~days from the date of assessment by the State Board of~~
3 ~~Equalization.~~

4 ~~(c) On or before each January 1, the department shall annually~~
5 ~~transmit to the State Board of Equalization the appropriate name~~
6 ~~and address of each person who is liable for the fire prevention~~
7 ~~fee and the amount of the fee to be assessed, as authorized by this~~
8 ~~article, and at the same time the department shall provide to the~~
9 ~~State Board of Equalization a contact telephone number for the~~
10 ~~board to be printed on the bill to respond to questions about the~~
11 ~~fee.~~

12 ~~(d) If in any given fiscal year there are sufficient amounts of~~
13 ~~money in the State Responsibility Area Fire Prevention Fund~~
14 ~~created pursuant to Section 4214 to finance the costs of the~~
15 ~~programs under subdivision (d) of Section 4214 for that fiscal year,~~
16 ~~the fee may not be collected that fiscal year.~~

17 ~~(e) This section shall become inoperative on the date that is five~~
18 ~~years after the effective date of the act adding this subdivision,~~
19 ~~and, as of January 1, 2021, is repealed, unless a later enacted~~
20 ~~statute, that becomes operative on or before January 1, 2021,~~
21 ~~deletes or extends the dates on which it becomes inoperative and~~
22 ~~is repealed.~~

23 ~~SEC. 2. Section 4213 is added to the Public Resources Code,~~
24 ~~to read:~~

25 ~~4213. (a) (1) The fire prevention fee imposed pursuant to~~
26 ~~Section 4212 shall be collected annually by the State Board of~~
27 ~~Equalization in accordance with the Fee Collection Procedures~~
28 ~~Law (Part 30 (commencing with Section 55001) of Division 2 of~~
29 ~~the Revenue and Taxation Code).~~

30 ~~(2) Notwithstanding the appeal provisions in the Fee Collection~~
31 ~~Procedures Law, a determination by the department that a person~~
32 ~~is required to pay a fire prevention fee, or a determination by the~~
33 ~~department regarding the amount of that fee, is subject to review~~
34 ~~under Article 2 (commencing with Section 4220) and is not subject~~
35 ~~to a petition for redetermination by the State Board of Equalization.~~

36 ~~(3) (A) Notwithstanding the refund provisions in the Fee~~
37 ~~Collection Procedures Law, the State Board of Equalization shall~~
38 ~~not accept any claim for refund that is based on the assertion that~~
39 ~~a determination by the department improperly or erroneously~~
40 ~~calculated the amount of the fire prevention fee, or incorrectly~~

1 ~~determined that the person is subject to that fee, unless that~~
2 ~~determination has been set aside by the department or a court~~
3 ~~reviewing the determination of the department.~~

4 ~~(B) If the department or a reviewing court determines that a~~
5 ~~person is entitled to a refund of all or part of the fire prevention~~
6 ~~fee, the person shall make a claim to the State Board of~~
7 ~~Equalization pursuant to Chapter 5 (commencing with Section~~
8 ~~55221) of Part 30 of Division 2 of the Revenue and Taxation Code.~~

9 ~~(b) The annual fire prevention fee shall be due and payable 30~~
10 ~~days from the date of assessment by the State Board of~~
11 ~~Equalization.~~

12 ~~(c) On or before each January 1, the department shall annually~~
13 ~~transmit to the State Board of Equalization the appropriate name~~
14 ~~and address of each person who is liable for the fire prevention~~
15 ~~fee and the amount of the fee to be assessed, as authorized by this~~
16 ~~article, and at the same time the department shall provide to the~~
17 ~~State Board of Equalization a contact telephone number for the~~
18 ~~board to be printed on the bill to respond to questions about the~~
19 ~~fee.~~

20 ~~(d) If in any given fiscal year there are sufficient amounts of~~
21 ~~money in the State Responsibility Area Fire Prevention Fund~~
22 ~~created pursuant to Section 4214 to finance the costs of the~~
23 ~~programs under subdivision (d) of Section 4214 for that fiscal year,~~
24 ~~the fee may not be collected that fiscal year.~~

25 ~~(e) This section shall become operative on the date that is five~~
26 ~~years after the effective date of the act adding this section.~~

27 ~~SEC. 3. Section 4220 of the Public Resources Code is amended~~
28 ~~to read:~~

29 ~~4220. (a) A person from whom the fire prevention fee is~~
30 ~~determined to be due under this chapter may petition for a~~
31 ~~redetermination of whether this chapter applies to that person~~
32 ~~within 60 days after service upon him or her of a notice of the~~
33 ~~determination. If a petition for redetermination is not filed within~~
34 ~~the 60-day period, the amount determined to be due becomes final~~
35 ~~at the expiration of the 60-day period.~~

36 ~~(b) This section shall become inoperative on the date that is five~~
37 ~~years after the effective date of the act adding this subdivision,~~
38 ~~and, as of January 1, 2021, is repealed, unless a later enacted~~
39 ~~statute, that becomes operative on or before January 1, 2021,~~

1 ~~deletes or extends the dates on which it becomes inoperative and~~
2 ~~is repealed.~~

3 ~~SEC. 4. Section 4220 is added to the Public Resources Code,~~
4 ~~to read:~~

5 ~~4220. (a) A person from whom the fire prevention fee is~~
6 ~~determined to be due under this chapter may petition for a~~
7 ~~redetermination of whether this chapter applies to that person~~
8 ~~within 30 days after service upon him or her of a notice of the~~
9 ~~determination. If a petition for redetermination is not filed within~~
10 ~~the 30-day period, the amount determined to be due becomes final~~
11 ~~at the expiration of the 30-day period.~~

12 ~~(b) This section shall become operative on the date that is five~~
13 ~~years after the effective date of the act adding this section.~~

14 ~~SEC. 5. Section 4222 of the Public Resources Code is amended~~
15 ~~to read:~~

16 ~~4222. If a petition for redetermination of the application of this~~
17 ~~chapter is filed within the period specified in subdivision (a) of~~
18 ~~Section 4220, the department shall reconsider whether the fee is~~
19 ~~due and make a determination in writing. The department may~~
20 ~~eliminate the fee based on a determination that this chapter does~~
21 ~~not apply to the person who filed the petition.~~

22 ~~SEC. 6. This act is an urgency statute necessary for the~~
23 ~~immediate preservation of the public peace, health, or safety within~~
24 ~~the meaning of Article IV of the Constitution and shall go into~~
25 ~~immediate effect. The facts constituting the necessity are:~~

26 ~~In order to ensure a smooth beginning for the 2016 fire~~
27 ~~prevention fee collection period and to provide relief at the earliest~~
28 ~~possible time to the rural property owners that this act seeks to~~
29 ~~assist, it is necessary that this act take effect immediately.~~