

ASSEMBLY BILL

No. 720

Introduced by Assembly Member Cooley

February 25, 2015

An act to add Sections 38575 and 38576 to the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 720, as introduced, Cooley. California Global Warming Solutions Act of 2006: market-based compliance mechanisms.

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 emissions reductions. The act authorizes the state board to include the use of market-based compliance mechanisms.

This bill would require the state board, for any market-based compliance mechanism that the state board might adopt, to allow participating entities to freely sell or transfer greenhouse gas emissions allowances held in a holding account, as defined, or compliance account, as defined, except for allowances that have been expressly retired to meet a compliance obligation, as defined.

This bill would require the state board, for any market-based compliance mechanism that the state board might adopt, to set a price cap on any allowances offered for purchase through the state board.

This bill would exempt from the Administrative Procedure Act and the California Environmental Quality Act a regulation adopted by the state board pursuant to this act.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The California Global Warming Solutions Act of 2006
4 (Division 25.5 (commencing with Section 38500) of the Health
5 and Safety Code) was adopted to reduce carbon emissions
6 associated with the state’s economy. Section 38560 of the Health
7 and Safety Code charges the State Air Resources Board with the
8 duty of adopting rules and regulations “to achieve the maximum
9 technologically feasible and cost-effective greenhouse gas
10 emissions reductions from sources or categories of sources.”

11 (b) One measure that the state board has implemented in
12 furtherance of the act is a market-based compliance mechanism,
13 known as the cap-and-trade regulation.

14 (c) For a market-based compliance mechanism to operate
15 effectively and allow entities covered by the market-based
16 compliance mechanism the efficiency and flexibility to achieve
17 emissions reductions at the lowest possible cost, the market for
18 emissions allowances must promote liquidity while also preventing
19 market manipulation.

20 (d) As part of the market-based compliance mechanism, the
21 state board has adopted a holding limit, placing a limitation on the
22 total number of allowances that any entity participating in the
23 program can hold at one time, subject to certain exceptions. The
24 current holding limit could adversely affect the liquidity and
25 efficiency of the emissions allowance market in that the holding
26 limit functions to require some entities participating in the
27 market-based compliance mechanism to surrender compliance
28 instruments for compliance prior to established regulatory
29 compliance deadlines, thus creating artificial scarcity in the market.

30 (e) Revising the holding limit to permit entities participating in
31 the market-based compliance mechanism to freely transfer
32 allowances from a compliance and holding account to meet their

1 obligations under the market-based compliance mechanism will
2 promote market efficiency and fairness while maintaining the state
3 board’s ability to preserve market integrity and prevent market
4 manipulation.

5 SEC. 2. Section 38575 is added to the Health and Safety Code,
6 to read:

7 38575. (a) For purposes of this section, the following terms
8 have the following meanings:

9 (1) “Compliance account” means an account, created by the
10 state board for an entity participating in a market-based compliance
11 mechanism that has a compliance obligation, to which the entity
12 transfers allowances and offsets to meet its compliance obligations.

13 (2) “Compliance obligation” means the quantity of verified
14 reported greenhouse gas emissions or assigned greenhouse gas
15 emissions for which an entity participating in a market-based
16 compliance mechanism is required to submit compliance
17 instruments to the state board.

18 (3) “Holding account” means an account created for each entity
19 participating in a market-based compliance mechanism, or a
20 voluntarily associated entity, to hold allowances or offsets.

21 (4) “Offset” means a greenhouse gas emissions reduction or
22 greenhouse gas emissions removal enhancement verified by the
23 state board that may be used by an entity participating in a
24 market-based compliance mechanism to satisfy a compliance
25 obligation.

26 (b) For any market-based compliance mechanism that the state
27 board might adopt pursuant to this part, the state board shall allow
28 participating entities to freely sell or transfer greenhouse gas
29 emissions allowances held in a holding account or compliance
30 account, except for allowances that have been expressly retired to
31 meet a compliance obligation. This subdivision also applies to
32 allowances held jointly by a group of entities with a direct
33 corporation association.

34 (c) No later than June 30, 2016, the state board shall promulgate
35 a regulation for the purposes of this section. A regulation adopted
36 pursuant to this section shall be exempt from the Administrative
37 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
38 Part 1 of Division 3 of Title 2 of the Government Code) and the
39 California Environmental Quality Act (Division 13 (commencing
40 with Section 21000) of the Public Resources Code).

1 SEC. 3. Section 38576 is added to the Health and Safety Code,
2 to read:

3 38576. (a) For any market-based compliance mechanism that
4 the state board might adopt, the state board shall set a price cap
5 on any allowances offered for purchase through the state board.

6 (b) No later than June 30, 2016, the state board shall promulgate
7 a regulation for the purposes of this section. A regulation adopted
8 pursuant to this section shall be exempt from the Administrative
9 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
10 Part 1 of Division 3 of Title 2 of the Government Code) and the
11 California Environmental Quality Act (Division 13 (commencing
12 with Section 21000) of the Public Resources Code).