

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1685**

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**Introduced by Assembly Member Gomez**

January 20, 2016

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An act to *amend Sections 43016, 43151, 43154, 43211, and 43212 of, and add Section 43214 to, the Health and Safety Code, relating to vehicular air pollution.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1685, as amended, Gomez. ~~New motor vehicles: emission standards: Vehicular air pollution:~~ civil penalties.

**Existing**

(1) *Existing law* requires the State Air Resources Board to adopt and implement standards for the control of emissions from new motor vehicles that the state board finds to be necessary and technologically feasible. Existing law prohibits a new motor vehicle from being sold in the state that does not meet the emissions standards adopted by the state board. *Existing law provides that a person who violates specified vehicular air pollution statutes or specified orders, rules, or regulations of the state board is subject to a civil penalty up to \$500 per vehicle.* Existing law provides that any manufacturer who sells, attempts to sell, or causes to be offered for sale a new motor vehicle that fails to meet the applicable emission standards shall be subject to a civil penalty of \$5,000 ~~for each such~~ *per action.* *Existing law provides that a manufacturer or distributor who does not comply with the emission*

*standards or the test procedures adopted by the state board is subject to a civil penalty of \$50 per vehicle.*

*This bill would increase those penalties to \$37,500 per action or vehicle. The bill would require the state board to adjust those penalties for inflation, as specified. The bill would require that the payment of a penalty for the violation of specified vehicular air pollution statutes or specified orders, rules, or regulations of the state board be a condition for the continued sale of products that are subject to regulation by the state board. The bill would exempt these provisions from the Administrative Procedure Act.*

*This bill would authorize the state board to order a manufacturer of new motor vehicles to bring the vehicles into compliance with the emissions configuration they were certified to meet. The bill would require the manufacturer to be in compliance with the state board's order as a condition for the continued sale of motor vehicles in the state.*

*(2) Existing law prohibits a person who is a state resident or who operates an established place of business within the state from importing, delivering, purchasing, renting, leasing, acquiring, or receiving a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in the state unless the motor vehicle engine or new motor vehicle has been certified to meet specified emissions standards. Existing law provides that a person who violates specified provisions relating to transactions of new motor vehicles or new motor vehicle engines is subject to a civil penalty of up to \$5,000 per vehicle.*

*This bill instead would prohibit any person from advertising, introducing into commerce, importing, delivering, purchasing, renting, leasing, acquiring, or receiving a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in the state unless the motor vehicle engine or new motor vehicle has been certified to meet those specified emissions standards.*

*This bill would increase the civil penalty to \$37,500 per action for violating those specified provisions relating to transactions of new motor vehicles or new motor vehicle engines. The bill would require the state board to adjust that penalty for inflation, as specified. The bill would require that the payment of the penalty be a condition for the continued sale of motor vehicles by the manufacturer or distributor in*

*the state. The bill would exempt these provisions from the Administrative Procedure Act.*

~~This bill would require the state board to update civil penalties to ensure state law provides appropriate penalties, accounting for the intent of the violator, for introducing into commerce in California vehicles that do not meet emission standards adopted by the state board.~~

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. *Section 43016 of the Health and Safety Code is*  
2 *amended to read:*

3     43016. ~~Any~~(a) (1) A person who violates any provision of  
4 this part, or any order, rule, or regulation of the state board adopted  
5 pursuant to this part, and for which violation there is not provided  
6 in this part any other specific civil penalty or fine, shall be subject  
7 to a civil penalty not to exceed ~~five hundred dollars (\$500) per~~  
8 ~~vehicle, portable fuel container, spout, engine, or other unit~~  
9 *thirty-seven thousand five hundred dollars (\$37,500) for each*  
10 *action subject to regulation under pursuant to this part, as these*  
11 ~~terms are defined in this division or state board regulations. Any~~  
12 ~~part. Violations involving portable fuel containers or small off-road~~  
13 ~~engines shall be subject to a civil penalty of five hundred dollars~~  
14 ~~(\$500) per unit. For a manufacturer or distributor who violates~~  
15 ~~any provision of this article, the payment of the penalty shall be a~~  
16 ~~condition for the continued sale by the manufacturer or distributor~~  
17 ~~in this state of products regulated by the state board pursuant to~~  
18 ~~this division.~~

19     (2) *The state board shall adjust the maximum penalties specified*  
20 *in paragraph (1) for inflation based on the California Consumer*  
21 *Price Index. The adjustment shall be exempt from the*  
22 *Administrative Procedure Act (Chapter 3.5 (commencing with*  
23 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
24 *Code).*

25     (b) *Any penalty collected pursuant to this section shall be*  
26 ~~payable to the State Treasurer for deposit deposited in the Air~~  
27 ~~Pollution Control Fund.~~

28     SEC. 2. *Section 43151 of the Health and Safety Code is*  
29 *amended to read:*

1 43151. (a) ~~No~~A person who is a resident of, or who operates  
 2 an established place of business within, this state shall *not*  
 3 *advertise, introduce into commerce, import, deliver, purchase,*  
 4 *rent, lease, acquire, or receive a new motor vehicle, new motor*  
 5 *vehicle engine, or motor vehicle with a new motor vehicle engine*  
 6 *for use, registration, or resale in this state unless*~~such~~ *the motor*  
 7 *vehicle engine or motor vehicle has been certified pursuant to this*  
 8 *chapter.*~~No~~ A person shall *not* attempt or assist in~~any such that~~  
 9 *action.*

10 (b) This article shall not apply to a vehicle acquired by a  
 11 resident of this state for the purpose of replacing a vehicle  
 12 registered to~~such that~~ resident~~which that~~ was damaged or became  
 13 inoperative beyond reasonable repair or was stolen while out of  
 14 this~~state;~~ *state* provided that~~such the~~ replacement vehicle is  
 15 acquired out of state at the time the previously owned vehicle was  
 16 either damaged or became inoperative or was stolen. This article  
 17 shall not apply to a vehicle transferred by~~inheritance;~~ *inheritance*  
 18 or by a decree of divorce, dissolution, or legal separation entered  
 19 by a court of competent jurisdiction, or to any vehicle sold after  
 20 the effective date of the amendments to this subdivision at the  
 21 1979–80 Regular Session of the Legislature if the vehicle was  
 22 registered in this state before~~such that~~ effective date.

23 (c) This chapter shall not apply to any motor vehicle having a  
 24 certificate of conformity issued pursuant to the *federal* Clean Air  
 25 Act (42 U.S.C. Sec. 7401 et seq.) and originally registered in  
 26 another state by a resident of that state who subsequently  
 27 establishes residence in this state and who, upon registration of  
 28 the vehicle in this state, provides satisfactory evidence to the  
 29 Department of Motor Vehicles of the previous residence and  
 30 registration. This subdivision shall become operative 180 calendar  
 31 days after the state board adopts regulations for the certification  
 32 of new direct import vehicles pursuant to Section 43203.5.

33 ~~(d) “Established place of business,” as used in this section,~~  
 34 ~~means a place actually occupied either continuously or at regular~~  
 35 ~~periods.~~

36 *SEC. 3. Section 43154 of the Health and Safety Code is*  
 37 *amended to read:*

38 43154. (a) ~~Any~~(1) A person who violates any provision of  
 39 this article shall be~~liable for~~ *subject to* a civil penalty not to exceed  
 40 ~~five thousand dollars (\$5,000) per vehicle.~~ *thirty-seven thousand*

1 *five hundred dollars (\$37,500) for each action. For a manufacturer*  
2 *or distributor who violates any provision of this article, the*  
3 *payment of the penalty shall be a condition for the continued sale*  
4 *of motor vehicles by that manufacturer or distributor in this state.*

5 *(2) The state board shall adjust the maximum penalty specified*  
6 *in paragraph (1) for inflation based on the California Consumer*  
7 *Price Index. The adjustment shall be exempt from the*  
8 *Administrative Procedure Act (Chapter 3.5 (commencing with*  
9 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
10 *Code).*

11 (b) Any action to recover a penalty under this section shall be  
12 brought in the name of the people of the State of California in the  
13 superior court of the county where the violation occurred, or in  
14 the county where the defendant’s residence or principal place of  
15 business is located, by the Attorney General on behalf of the state  
16 board, in which event all penalties adjudged by the court shall be  
17 deposited in the Air Pollution Control Fund, or by the district  
18 attorney or county attorney of such county, or by the city attorney  
19 of a city in that county, in which event all penalties adjudged by  
20 the court shall be deposited with the treasurer of the county or city,  
21 as the case may be.

22 *SEC. 4. Section 43211 of the Health and Safety Code is*  
23 *amended to read:*

24 43211. ~~No~~(a) (1) A new motor vehicle sold in California ~~that~~  
25 ~~does not~~ shall meet the emission standards adopted by the state  
26 board, and ~~any~~ a manufacturer who sells, attempts to sell, or causes  
27 to be offered for sale a new motor vehicle that fails to meet the  
28 applicable emission standards shall be subject to a civil penalty of  
29 ~~five thousand dollars (\$5,000)~~ *thirty-seven thousand five hundred*  
30 *dollars (\$37,500) for each ~~such~~ action.*

31 *(2) The state board shall adjust the maximum penalty specified*  
32 *in paragraph (1) for inflation based on the California Consumer*  
33 *Price Index. The adjustment shall be exempt from the*  
34 *Administrative Procedure Act (Chapter 3.5 (commencing with*  
35 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
36 *Code).*

37 ~~Any~~

38 (b) Any penalty recovered pursuant to this section shall be  
39 deposited into the General Fund.

1 SEC. 5. Section 43212 of the Health and Safety Code is  
2 amended to read:

3 43212. ~~Any~~ (a) (1) A manufacturer or distributor who does  
4 not comply with the emission standards or the test procedures  
5 adopted by the state board shall be subject to a civil penalty of  
6 ~~fifty dollars (\$50)~~ thirty-seven thousand five hundred dollars  
7 (\$37,500) for each vehicle ~~which~~ that does not comply with the  
8 standards or procedures and ~~which~~ that is first sold in this state.  
9 The payment of ~~such~~ the penalties to the state board shall be a  
10 condition to the further sale by ~~such~~ the manufacturer or distributor  
11 of new motor vehicles in this state.

12 (2) The state board shall adjust the maximum penalty specified  
13 in paragraph (1) for inflation based on the California Consumer  
14 Price Index. The adjustment shall be exempt from the  
15 Administrative Procedure Act (Chapter 3.5 (commencing with  
16 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
17 Code).

18 ~~Any~~

19 (b) Any penalty recovered pursuant to this section shall be  
20 deposited into the Air Pollution Control Fund.

21 SEC. 6. Section 43214 is added to the Health and Safety Code,  
22 to read:

23 43214. The state board may order a manufacturer of new motor  
24 vehicles to bring its vehicles into compliance with the emissions  
25 configuration they were certified to meet. Compliance with the  
26 order shall be a condition for the continued sale of motor vehicles  
27 by that manufacturer in this state.

28 SECTION 1. ~~The State Air Resources Board shall update civil~~  
29 ~~penalties to ensure state law provides appropriate penalties,~~  
30 ~~accounting for the intent of the violator, for introducing into~~  
31 ~~commerce in California vehicles that do not meet emission~~  
32 ~~standards adopted by the state board.~~