

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1685

Introduced by Assembly Member Gomez

January 20, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1685, as amended, Gomez. Vehicular air pollution: civil penalties.

(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 *of* 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~~ *is* subject to a civil penalty of \$5,000 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 up* to \$37,500 per action or vehicle. The bill would require the state board to adjust those *maximum* penalties for inflation, ~~as specified.~~ *specified, and would exempt those adjustments from the Administrative Procedure Act.* 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 *by a manufacturer or distributor* 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 *to which* they were ~~certified to meet.~~ *certified.* 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,~~ *offering for sale,* 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 up* to \$37,500 per action ~~and up to \$10,000 for a dealer, as defined,~~ 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~~ *those maximum penalties* for inflation, ~~as specified.~~ *specified, and would exempt those adjustments from the Administrative Procedure Act.* 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.~~

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. (a) (1) A person who violates any provision of this
4 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 thirty-seven thousand five hundred
8 dollars (\$37,500) for each *such* action subject to regulation pursuant
9 to this part. Violations involving portable fuel containers or small
10 off-road engines shall be subject to a civil penalty ~~of not to exceed~~
11 five hundred dollars (\$500) per unit. For a manufacturer or
12 distributor who violates any provision of this ~~article, part, or any~~
13 *order, rule, or regulation of the state board adopted pursuant to*
14 *this part*, the payment of the penalty shall be a condition for the
15 continued sale by the manufacturer or distributor in this state of
16 products regulated by the state board pursuant to this division.

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

23 (b) Any penalty collected pursuant to this section shall be
24 deposited in the Air Pollution Control Fund.

25 SEC. 2. Section 43151 of the Health and Safety Code is
26 amended to read:

27 43151. (a) A person shall not ~~advertise, offer for sale,~~ introduce
28 into commerce, import, deliver, purchase, rent, lease, acquire, or
29 receive a new motor vehicle, new motor vehicle engine, or motor
30 vehicle with a new motor vehicle engine for use, registration, or
31 resale in this state unless the motor vehicle engine or motor vehicle

1 has been certified pursuant to this chapter. A person shall not
2 attempt or assist in ~~that~~ *any such* action.

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

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

26 SEC. 3. Section 43154 of the Health and Safety Code is
27 amended to read:

28 43154. (a) (1) A person who violates any provision of this
29 article shall be subject to a civil penalty not to exceed thirty-seven
30 thousand five hundred dollars (\$37,500) for each *such* action. For
31 a manufacturer or distributor who violates any provision of this
32 article, the payment of the penalty shall be a condition for the
33 continued sale of motor vehicles by that manufacturer or ~~distributor~~
34 *distributor* in this state.

35 (2) *Notwithstanding paragraph (1), a dealer, as defined in*
36 *Section 285 of the Vehicle Code, who violates any provision of*
37 *this article shall be subject to a civil penalty not to exceed ten*
38 *thousand dollars (\$10,000) for each such action.*

39 (2)

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

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

18 SEC. 4. Section 43211 of the Health and Safety Code is
19 amended to read:

20 43211. (a) (1) A new motor vehicle sold in California shall
21 meet the emission standards adopted by the state board, and a
22 manufacturer who sells, attempts to sell, or causes to be offered
23 for sale a new motor vehicle that fails to meet the applicable
24 emission standards shall be subject to a civil penalty ~~of not to~~
25 *exceed* thirty-seven thousand five hundred dollars (\$37,500) for
26 each *such* action.

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

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

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

37 43212. (a) (1) A manufacturer or distributor who does not
38 comply with the emission standards or the test procedures adopted
39 by the state board shall be subject to a civil penalty ~~of not to exceed~~
40 thirty-seven thousand five hundred dollars (\$37,500) for each

1 vehicle that does not comply with the standards or procedures and
2 that is first sold in this state. The payment of ~~the~~ *such* penalties to
3 the state board shall be a condition to the further sale by the
4 manufacturer or distributor of ~~new~~ motor vehicles 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 penalty recovered pursuant to this section shall be
12 deposited into the Air Pollution Control Fund.

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

15 43214. The state board may order a manufacturer of ~~new~~ motor
16 vehicles to bring its vehicles into compliance with the emissions
17 configuration *to which* they were ~~certified to meet~~. *certified*.
18 Compliance with the order shall be a condition for the continued
19 sale of motor vehicles by that manufacturer in this state.