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AMENDED IN SENATE JUNE 14, 2016

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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 is subject to a civil penalty of \$5,000 per ~~action~~ violation. 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~~ *violation* or vehicle. The bill would require the state board to adjust those maximum penalties for inflation, as specified, and would exempt those adjustments from the Administrative Procedure Act. The bill would ~~require that~~ *authorize* 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~~ *alleged or found to be in violation* by the state board.

This bill would authorize the state board to order a manufacturer of motor vehicles to bring the vehicles into compliance with the emissions configuration to which they were certified. The bill would ~~require~~ *authorize* 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 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~~ *violation* 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 those maximum penalties for inflation, as specified, and would exempt those adjustments from the Administrative Procedure Act. The bill would ~~require that~~ *authorize* the payment of the penalty be a

condition for the continued sale *in the state by that manufacturer or distributor* of motor vehicles ~~by the manufacturer or distributor in the state~~. *that are alleged or found to be in violation 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. (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~~ *violation* subject to
9 regulation pursuant to this part. Violations involving portable fuel
10 containers or small off-road engines shall be subject to a civil
11 penalty not to exceed five hundred dollars (\$500) per unit. For a
12 manufacturer or distributor who violates any provision of this part,
13 or any order, rule, or regulation of the state board adopted pursuant
14 to this part, the payment of the penalty ~~shall~~ *may* be a condition
15 for the continued sale *in this state* by the manufacturer or
16 distributor ~~in this state~~ of products ~~regulated~~ *that are alleged or*
17 *found to be in violation* by the state board ~~pursuant to this division~~.
18 *board.*

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 deposited in the Air Pollution Control Fund.

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

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

1 this state unless the motor vehicle engine or motor vehicle has
2 been certified pursuant to this chapter. A person shall not attempt
3 or assist in ~~any such~~ *that* action.

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

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

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

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

38 (2) Notwithstanding paragraph (1), a dealer, as defined in
39 Section 285 of the Vehicle Code, who violates any provision of

1 this article shall be subject to a civil penalty not to exceed ten
2 thousand dollars (\$10,000) for each ~~such action~~: *violation*.

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

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

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

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

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

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

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

39 43212. (a) (1) A manufacturer or distributor who does not
40 comply with the emission standards or the test procedures adopted

1 by the state board shall be subject to a civil penalty not to exceed
2 thirty-seven thousand five hundred dollars (\$37,500) for each
3 vehicle that does not comply with the standards or procedures and
4 that is first sold in this state. The payment of ~~such~~ *those* penalties
5 to the state board ~~shall~~ *may* be a condition to the further sale *in*
6 *this state* by the manufacturer or distributor of motor vehicles ~~in~~
7 ~~this state~~. *that are alleged or found to be in violation by the state*
8 *board.*

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

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

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

19 43214. The state board may order a manufacturer of motor
20 vehicles to bring its vehicles into compliance with the emissions
21 configuration to which they were certified. Compliance with the
22 order ~~shall~~ *may* be a condition for the continued sale *in this state*
23 *by that manufacturer* of motor vehicles ~~by that manufacturer in~~
24 ~~this state~~. *that are alleged or found to be in violation by the state*
25 *board.*