

Assembly Bill No. 1685

CHAPTER 604

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.

[Approved by Governor September 25, 2016. Filed with Secretary of State September 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1685, Gomez. Vehicular air pollution: zero-emission vehicles: 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 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 violation. 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 authorize the state board to require the payment of a penalty for the violation of specified vehicular air pollution statutes or specified orders, rules, or regulations of the state board, and making the products compliant with specified laws, as conditions for the continued sale of those products.

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 authorize the state board to 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 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 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 authorize the state board to require the payment of the penalty, and making the motor vehicles compliant with specified laws, as conditions for the continued or further sale in the state of those motor vehicles.

This bill would require the state board to limit to \$5,000 a specified civil penalty imposed on a manufacturer who does not meet the requirements of specified regulations that require manufacturers to have a specified percentage of their new motor vehicle sales be zero-emission vehicles.

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

SECTION 1. Section 43016 of the Health and Safety Code is amended to read:

43016. (a) (1) A person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty not to exceed thirty-seven thousand five hundred dollars (\$37,500) for each such action pursuant to this part. Violations involving portable fuel containers or small off-road engines shall be subject to a civil penalty not to exceed five hundred dollars (\$500) per unit. For a manufacturer or distributor who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, the payment of the penalty and making the product compliant with applicable emission control laws may be required by the executive officer of the state board as conditions for the continued sale in this state of those products regulated by the state board pursuant to this division.

(2) The state board shall adjust the maximum penalties specified in paragraph (1) for inflation based on the California Consumer Price Index.

The adjustment shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

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

43151. (a) A person shall not offer for sale, introduce into commerce, import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless the motor vehicle engine or motor vehicle has been certified pursuant to this chapter. A person shall not attempt or assist in any such action.

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

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

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

43154. (a) (1) A person who violates any provision of this article shall be subject to a civil penalty not to exceed thirty-seven thousand five hundred dollars (\$37,500) for each such action. For a manufacturer or distributor who violates any provision of this article, the payment of the penalty and making the vehicles compliant with applicable emission control laws may be required by the executive officer of the state board as conditions for the continued sale in this state of those motor vehicles.

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

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

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

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

43211. (a) A new motor vehicle sold in California shall meet the emission standards adopted by the state board, and a 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 not to exceed thirty-seven thousand five hundred dollars (\$37,500) for each such action.

(b) For purposes of calculating the penalty for failure to meet zero-emission vehicle credit requirements pursuant to Sections 1962, 1962.1, and 1962.2 of Title 13 of the California Code of Regulations or any subsequent or related regulation, the civil penalty shall not exceed five thousand dollars (\$5,000) per zero-emission vehicle credit.

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

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

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

43212. (a) (1) A manufacturer or distributor who does not comply with the emission standards or the test procedures adopted by the state board shall be subject to a civil penalty not to exceed thirty-seven thousand five hundred dollars (\$37,500) for each vehicle that does not comply with the standards or procedures and that is first sold in this state. The payment of such penalties to the state board and making the vehicles compliant with applicable emission control laws and test procedures may be required by the executive officer of the state board as conditions for the further sale in this state of those motor vehicles.

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

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

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

43214. The state board may order a manufacturer of motor vehicles to bring its vehicles into compliance with the emissions configuration to which they were certified. Compliance with the order may be required by the executive officer of the state board as a condition for the continued sale of those motor vehicles by that manufacturer in this state.