

AMENDED IN ASSEMBLY APRIL 4, 2016
AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1851

Introduced by Assembly Members Gray and Ting

February 10, 2016

An act to amend Section 44258.4 of, and to add Chapter 8.1 (commencing with Section 44257.1) and Chapter 8.8 (commencing with Section 44269) to Part 5 of Division 26 of, the Health and Safety Code, to amend Sections 6011 and 6012 of the Revenue and Taxation Code, and to amend Section 5205.5 of the Vehicle Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, as amended, Gray. Vehicular air pollution: reduction incentives.

(1) Existing law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for the purposes of funding projects related to, among other things, *the* reduction of criteria air pollutants and improvement of air quality. Pursuant to the Air Quality Improvement Program, the state board has established the Clean Vehicle Rebate Project to promote the production and use of zero-emission vehicles and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project to provide vouchers to help California fleets to purchase hybrid and zero-emission trucks and buses.

The Charge Ahead California Initiative, administered by the state board, includes goals of, among other things, placing in service at least 1,000,000 zero-emission and near-zero-emission vehicles by January

1, 2023, and increasing access for disadvantaged, low-income, and moderate-income communities and consumers to zero-emission and near-zero-emission vehicles.

The California Global Warming Solutions Act of 2006 establishes the state board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature.

This bill, as part of the Clean Vehicle Rebate Project, would require the state board to provide specified rebate amounts for battery electric vehicles, fuel-cell vehicles, and plug-in hybrid electric vehicles; to limit rebates to vehicles with a manufacturer's suggested retail price of \$60,000 or less; and to implement a process to allow eligible applicants to obtain prompt preapproval from the state board prior to purchasing an eligible vehicle, as specified. The bill would authorize moneys from the Greenhouse Gas Reduction Fund to be available, upon appropriation, for allocation under those provisions and would authorize moneys available for allocation to disadvantaged communities to be available, upon appropriation, for ~~specified allocations~~ *allocations under those provisions to residents of those communities*.

This bill also would require the state board to issue specified rebates ~~for up to the costs associated with the purchase and~~ the installation of an electric vehicle charging station to a property owner or lessee, as specified. The bill would authorize moneys from the Greenhouse Gas Reduction Fund to be available, upon appropriation, for allocation for those rebates.

(2) Existing sales and use tax laws impose taxes on retailers measured by gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this ~~state~~, *state* measured by sales price. The Sales and Use Tax Law defines the terms "gross receipts" and "sales price."

This bill would exclude from the terms "gross receipts" and "sales price" for these purposes the value of a motor vehicle traded in for a qualified motor vehicle, as defined, if the value of the trade-in motor vehicle is separately stated on the motor vehicle invoice or bill of sale

or similar document provided by the purchaser. The bill would authorize moneys from the Greenhouse Gas Reduction Fund to be available, upon appropriation, for allocation to reimburse counties and cities for any revenue losses caused by those sales and use tax exemptions.

(3) Existing federal law, until September 30, 2017, authorizes a state to allow specified labeled vehicles to use lanes designated for high-occupancy vehicles (HOVs). Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of HOVs. Under existing law, until January 1, 2019, until federal authorization expires, or until the Secretary of State receives a specified notice, those lanes may be used by certain vehicles not carrying the requisite number of passengers otherwise required for the use of an HOV lane if the vehicle displays a valid identifier issued by the Department of Motor Vehicles (DMV). Existing law authorizes the DMV to issue no more than 85,000 of those identifiers.

This bill would no longer limit the amount of identifiers issued by the DMV.

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) California is at the forefront of battling climate change, and
4 a main pillar of the state's climate strategy is reducing greenhouse
5 gas emissions to 1990 levels.

6 (b) To help achieve this greenhouse gas emissions goal, the
7 State Air Resources Board has required large vehicle manufacturers
8 to produce a certain amount of zero-emission vehicles as a
9 percentage of the overall number of vehicles the manufacturer
10 makes for sale in the state. The present mandate is 15.4 percent of
11 new vehicles delivered for sale by 2025.

12 (c) To reinforce this mandate, Governor ~~Jerry~~ Brown issued
13 Executive Order B-16-2012, which set a long-term target of
14 1,500,000 zero-emission vehicles on the road by 2025, with the
15 hope and expectation that the market for these vehicles will become
16 mainstream and self-sustaining for individuals, businesses, and
17 public fleets.

1 (d) The widespread adoption and purchase of zero-emission
2 vehicles can help the environment and further the state's goals by
3 mitigating emissions and easing air pollution.

4 (e) To be effective in cutting emissions and cleaning up air
5 pollution, zero-emission and partial-zero-emission vehicles must
6 attract consumers who would otherwise choose a traditional
7 gasoline-fueled car.

8 (f) The current market for zero-emission vehicles has excessive
9 barriers, including the high relative purchase price associated with
10 zero-emission vehicles, limited range capability, inadequate
11 charging infrastructure, resale value, length of commute, and
12 existing low gas prices.

13 (g) In 2015, California's new car dealers sold over 2,000,000
14 new vehicles with a combined 3.1 percent of those sales comprising
15 zero-emission vehicles and partial-zero-emission vehicles. That
16 represents a drop in market share for these vehicles, which was
17 3.2 percent in 2014.

18 (h) Using last year's 2,000,000 new vehicle sales as an estimate
19 of 2025 vehicle sales by covered manufacturers, the 15.4 percent
20 mandate by the State Air Resources Board would require 308,000
21 zero-emission vehicles and partial-zero-emission vehicles be
22 delivered for sale in the state that year. If the current 41.5 percent
23 of new vehicle sales will continue to be made up of sport utility
24 vehicles, pickups, and vans, over 25 percent of the remaining
25 1,201,000 passenger vehicles delivered for sale just nine years
26 from now must be electric or plug-in electric vehicles.

27 (i) California has long focused on increasing disadvantaged
28 communities' access to environmentally-friendly technologies and
29 green transportation options to benefit the health of residents and
30 to enhance air quality.

31 (j) Compared to gasoline-fueled vehicles, alternative-fueled
32 vehicles reduce the country's dependence on foreign oil and
33 substantially lower consumers' fuel costs.

34 (k) Automakers and new car dealers face numerous inherent
35 market challenges when introducing and retailing the
36 alternative-fueled vehicles required by the State Air Resources
37 Board's vehicle mandates, including complex incentives, uncertain
38 policy support, purchase price disparity, lengthy sales transactions,
39 low gasoline prices, poor after-sale electric vehicle infrastructure,
40 and sophisticated, constantly-changing technology.

1 (l) Incentives, such as rebates, tax credits, and high occupancy
2 vehicle lane access for zero- and partial-emission vehicles, are
3 crucial for continuing consumer interest in these vehicles, but
4 greater investments are needed to significantly affect consumer
5 buying behavior and the overall alternative-fueled vehicle
6 marketplace, especially when it comes to economically
7 disadvantaged communities.

8 (m) Increased incentives have been deployed with great success
9 in other countries and have resulted in a large-scale consumer
10 migration from traditional gas-fueled vehicles to cleaner modes
11 of transportation.

12 (n) Accordingly, it is the intent of the Legislature in enacting
13 this act to provide more realistic incentives that will move customer
14 demand of zero-emission vehicles and achieve the adoption of
15 alternative-fueled vehicles to meet the state’s greenhouse gas
16 emissions goals.

17 SEC. 2. Chapter 8.1 (commencing with Section 44257.1) is
18 added to Part 5 of Division 26 of the Health and Safety Code, to
19 read:

20

21 CHAPTER 8.1. ZERO-EMISSION VEHICLE INCENTIVES

22

23 44257.1. For purposes of this chapter, the following terms have
24 the following meanings:

25 (a) “Battery electric vehicle” means a vehicle that meets the
26 state’s super ultra-low emission vehicle standard for exhaust
27 emissions and the federal inherently low-emission vehicle
28 evaporative emission standard, as defined in Part 88 (commencing
29 with Section 88.101-94) of Title 40 of the Code of Federal
30 Regulations, as that part read on January 1, 2016, and is powered
31 entirely by an electric motor drawing current from rechargeable
32 storage batteries.

33 (b) “Clean Vehicle Rebate Project” has the same meaning as
34 established pursuant to Section 44274.

35 (c) “Disadvantaged community” means a community identified
36 pursuant to Section 39711.

37 (d) “Fuel-cell vehicle” means a vehicle that meets the state’s
38 super ultra-low emission vehicle standard for exhaust emissions
39 and the federal inherently low-emission vehicle evaporative
40 emission standard, as defined in Part 88 (commencing with Section

1 88.101-94) of Title 40 of the Code of Federal Regulations, as that
2 part read on January 1, 2016, and is powered by an electric motor
3 drawing current from compressed hydrogen into a fuel cell.

4 (e) “New motor vehicle dealer” has the same meaning as in
5 Section 426 of the Vehicle Code.

6 (f) “Plug-in hybrid electric vehicle” means a vehicle that meets
7 the state’s enhanced advanced technology partial zero-emission
8 vehicle standard or transitional zero-emission vehicle standard.

9 44257.3. (a) Beginning January 1, 2017, as part of the Clean
10 Vehicle Rebate Project, the state board shall provide the following
11 incentive amounts:

12 (1) For a vehicle qualified as a plug-in hybrid electric vehicle,
13 an amount equal to 10 percent of the manufacturer’s suggested
14 retail price.

15 (2) For a vehicle qualified as a battery electric vehicle, an
16 amount equal to 15 percent of the manufacturer’s suggested retail
17 price.

18 (3) For a vehicle qualified as a fuel-cell vehicle, an amount
19 equal to 25 percent of the manufacturer’s suggested retail price.

20 (b) Notwithstanding subdivision (a), beginning January 1, 2017,
21 as part of the Clean Vehicle Rebate Project, the state board shall
22 provide for residents of a disadvantaged community the following
23 incentive amounts:

24 (1) For a vehicle qualified as a plug-in hybrid electric vehicle,
25 an amount equal to 40 percent of the manufacturer’s suggested
26 retail price.

27 (2) For a vehicle qualified as a battery electric vehicle, an
28 amount equal to 45 percent of the manufacturer’s suggested retail
29 price.

30 (3) For a vehicle qualified as a fuel-cell vehicle, an amount
31 equal to 55 percent of the manufacturer’s suggested retail price.

32 (c) (1) Moneys from the Greenhouse Gas Reduction Fund,
33 created pursuant to Section 16428.8 of the Government Code, shall
34 be available, upon appropriation by the Legislature, for allocation
35 pursuant to subdivision (a).

36 (2) Moneys available for allocation to disadvantaged
37 communities shall be available, upon appropriation by the
38 Legislature, for allocation pursuant to subdivision (b).

39 44257.5. In addition to the current criteria and other
40 requirements for the Clean Vehicle Rebate Project, beginning

1 January 1, 2017, the state board shall limit eligible vehicles to
2 those vehicles with a manufacturer's suggested retail price of sixty
3 thousand dollars (\$60,000) or less.

4 44257.7. (a) (1) The state board shall implement a process to
5 allow eligible applicants under the Clean Vehicle Rebate Project
6 to obtain prompt preapproval from the state board prior to
7 purchasing or leasing a vehicle. The process shall provide the
8 applicant a unique identifiable number, which the applicant can
9 present to a new motor vehicle dealer, and shall enable the unique
10 identifiable number to be verified by a new motor vehicle dealer
11 at the time of purchase or lease.

12 (2) The state board shall implement a process to allow a new
13 motor vehicle dealer to be refunded any Clean Vehicle Rebate
14 Project incentive amount applied to the applicant's conditional
15 sales contract or other vehicle purchase or lease agreement in no
16 fewer than seven days.

17 (b) Upon the implementation of subdivision (a), a new motor
18 vehicle dealer may apply the Clean Vehicle Rebate Project
19 incentive amount to the applicant's conditional sales contract or
20 other vehicle purchase or lease agreement as a downpayment or
21 amount due at lease signing or delivery.

22 (c) The state board shall suspend the preapproval process
23 described in paragraph (1) of subdivision (a) if inadequate funding
24 is available to award incentives under the Clean Vehicle Rebate
25 Project. If the state board suspends the preapproval process, it shall
26 provide dealers and consumers no less than 30 days' advance
27 notice.

28 44257.9. The state board shall adopt regulations implementing
29 this chapter.

30 SEC. 3. Section 44258.4 of the Health and Safety Code is
31 amended to read:

32 44258.4. (a) Any moneys utilized pursuant to this chapter from
33 the Greenhouse Gas Reduction Fund, created pursuant to Section
34 16428.8 of the Government Code, shall be consistent with the
35 appropriations processes and criteria established by the Greenhouse
36 Gas Reduction Fund Investment Plan and Communities
37 Revitalization Act (Chapter 4.1 (commencing with Section 39710)
38 of Part 2).

39 (b) The Charge Ahead California Initiative is hereby established
40 and shall be administered by the state board. The goals of this

1 initiative are to place in service at least 1,000,000 zero-emission
2 and near-zero-emission vehicles by January 1, 2023, to establish
3 a self-sustaining California market for zero-emission and
4 near-zero-emission vehicles in which zero-emission and
5 near-zero-emission vehicles are a viable mainstream option for
6 individual vehicle purchasers, businesses, and public fleets, to
7 increase access for disadvantaged, low-income, and
8 moderate-income communities and consumers to zero-emission
9 and near-zero-emission vehicles, and to increase the placement of
10 those vehicles in those communities and with those consumers to
11 enhance the air quality, lower greenhouse gases, and promote
12 overall benefits for those communities and consumers.

13 (c) The state board, in consultation with the State Energy
14 Resources Conservation and Development Commission, districts,
15 and the public, shall do all of the following:

16 (1) (A) Include, commencing with the funding plan for the
17 2016–17 fiscal year of the Air Quality Improvement Program
18 (Article 3 (commencing with Section 44274) of Chapter 8.9), a
19 funding plan that includes the immediate fiscal year and a forecast
20 of estimated funding needs for the subsequent two fiscal years
21 commensurate with meeting the goals of this chapter. Funding
22 needs may be described as a range that identifies the projected
23 high and low funding levels needed for the two-year forecast period
24 to contribute to technology advancement, market readiness, and
25 consumer acceptance of zero- and near-zero-emission vehicle
26 technologies. The funding plan shall include a market and
27 technology assessment for each funded zero- and
28 near-zero-emission vehicle technology to inform the appropriate
29 funding level, incentive type, and incentive amount. The forecast
30 shall include an assessment of when a self-sustaining market is
31 expected and how existing incentives may be modified to recognize
32 expected changes in future market conditions.

33 (B) Projects included in the forecast may include, but are not
34 limited to, any of the following:

35 (i) The Clean Vehicle Rebate Project, established pursuant to
36 Section 44274.

37 (ii) Light-duty zero-emission and near-zero-emission vehicle
38 deployment projects eligible under the Alternative and Renewable
39 Fuel and Vehicle Technology Program, established pursuant to
40 Article 2 (commencing with Section 44272) of Chapter 8.9.

- 1 (iii) Programs adopted pursuant to paragraph (4).
- 2 (2) Update the plan required pursuant to paragraph (1) at least
- 3 every three years through January 1, 2023.
- 4 (3) *No later than June 30, 2015, and consistent with Chapter*
- 5 *8.1 (commencing with Section 44257.1), adopt revisions to the*
- 6 *criteria and other requirements for the Clean Vehicle Rebate*
- 7 *Project, established pursuant to Section 44274, to ensure the*
- 8 *following:*
- 9 (A) *Eligibility is limited based on income.*
- 10 (B) *Consideration of methods to increase participation rates.*
- 11 ~~(3)~~
- 12 (4) (A) Establish programs that further increase access to and
- 13 direct benefits for disadvantaged, low-income, and
- 14 moderate-income communities and consumers from electric
- 15 transportation, including, but not limited to, any of the following:
- 16 (i) Financing mechanisms, including, but not limited to, a loan
- 17 or loan-loss reserve credit enhancement program to increase
- 18 consumer access to zero-emission and near-zero-emission vehicle
- 19 financing and leasing options that can help lower expenditures on
- 20 transportation and prequalification or point-of-sale rebates or other
- 21 methods to increase participation rates among low- and
- 22 moderate-income consumers.
- 23 (ii) Car sharing programs that serve disadvantaged communities
- 24 and utilize zero-emission and near-zero-emission vehicles.
- 25 (iii) Deployment of charging infrastructure in multiunit
- 26 dwellings in disadvantaged communities to remove barriers to
- 27 zero-emission and near-zero-emission vehicle adoption by those
- 28 who do not live in detached homes. This clause does not preclude
- 29 the Public Utilities Commission from acting within the scope of
- 30 its jurisdiction.
- 31 (iv) Additional incentives for zero-emission, near-zero-emission,
- 32 or high-efficiency replacement vehicles or a mobility option
- 33 available to participants in the enhanced fleet modernization
- 34 program, established pursuant to Article 11 (commencing with
- 35 Section 44125) of Chapter 5.
- 36 (B) Programs implemented pursuant to this paragraph shall
- 37 provide adequate outreach to disadvantaged, low-income, and
- 38 moderate-income communities and consumers, including partnering
- 39 with community-based organizations.

1 SEC. 4. Chapter 8.8 (commencing with Section 44269) is added
2 to Part 5 of Division 26 of the Health and Safety Code, to read:

3
4 CHAPTER 8.8. ELECTRIC VEHICLE CHARGING STATION REBATES

5
6 44269. (a) The state board shall issue a rebate ~~for the~~ *up to*
7 *the costs associated with the purchase and* installation of an electric
8 vehicle charging station to a property owner or lessee in the
9 following amounts:

10 (1) Two thousand dollars (\$2,000) for the first year of
11 installation.

12 (2) One thousand five hundred dollars (\$1,500) following the
13 first year of installation.

14 (3) One thousand dollars (\$1,000) following the second year of
15 installation.

16 (b) The property owner or lessee shall first place the electric
17 vehicle charging station in service during the calendar year for
18 which the rebate is claimed.

19 (c) The property owner or lessee shall maintain the electric
20 vehicle charging station for a minimum period of 60 months. If
21 the property owner or lessee does not maintain the electric vehicle
22 charging station for a minimum period of 60 months, the state
23 board shall seek reimbursement for the entire amount of the rebates
24 previously issued pursuant to subdivision (a) from the property
25 owner or lessee who had received those rebates.

26 (d) The property owner or lessee may not claim a rebate pursuant
27 to subdivision (a) for the installation of an electric vehicle charging
28 station if an existing electric vehicle charging station has been
29 removed from the property within the preceding 12 months.

30 (e) (1) The property owner or lessee may receive rebates for
31 the installation of up to two electric vehicle charging stations for
32 use on a residential ~~property~~ *property located in a disadvantaged*
33 *community, as identified pursuant to Section 39711.*

34 (2) The property owner or lessee may receive rebates for the
35 installation of up to 10 electric vehicle charging stations for use
36 on a commercial or multifamily property.

37 (f) *The state board shall limit eligible electric vehicle charging*
38 *stations to level 2 charging and rapid charging ports.*

39 (f)

1 (g) The state board shall adopt regulations implementing this
2 chapter.

3 44269.5. Moneys from the Greenhouse Gas Reduction Fund,
4 created pursuant to Section 16428.8 of the Government Code, shall
5 be available, upon appropriation by the Legislature, for allocation
6 pursuant to this chapter.

7 SEC. 5. Section 6011 of the Revenue and Taxation Code is
8 amended to read:

9 6011. (a) "Sales price" means the total amount for which
10 tangible personal property is sold or leased or rented, as the case
11 may be, valued in money, whether paid in money or otherwise,
12 without any deduction on account of any of the following:

- 13 (1) The cost of the property sold.
- 14 (2) The cost of materials used, labor or service cost, interest
15 charged, losses, or any other expenses.
- 16 (3) The cost of transportation of the property, except as excluded
17 by other provisions of this section.

18 (b) The total amount for which the property is sold or leased or
19 rented includes all of the following:

- 20 (1) Any services that are a part of the sale.
- 21 (2) Any amount for which credit is given to the purchaser by
22 the seller.
- 23 (3) The amount of any tax imposed by the United States upon
24 producers and importers of gasoline and the amount of any tax
25 imposed pursuant to Part 2 (commencing with Section 7301) of
26 this division.

27 (c) "Sales price" does not include any of the following:

- 28 (1) Cash discounts allowed and taken on sales.
- 29 (2) The amount charged for property returned by customers
30 when that entire amount is refunded either in cash or credit, but
31 this exclusion shall not apply in any instance when the customer,
32 in order to obtain the refund, is required to purchase other property
33 at a price greater than the amount charged for the property that is
34 returned. For the purpose of this section, refund or credit of the
35 entire amount shall be deemed to be given when the purchase price
36 less rehandling and restocking costs are refunded or credited to
37 the customer. The amount withheld for rehandling and restocking
38 costs may be a percentage of the sales price determined by the
39 average cost of rehandling and restocking returned merchandise
40 during the previous accounting cycle.

- 1 (3) The amount charged for labor or services rendered in
2 installing or applying the property sold.
- 3 (4) (A) The amount of any tax (not including, however, any
4 manufacturers' or importers' excise tax, except as provided in
5 subparagraph (B)) imposed by the United States upon or with
6 respect to retail sales whether imposed upon the retailer or the
7 consumer.
- 8 (B) The amount of manufacturers' or importers' excise tax
9 imposed pursuant to Section 4081 of the Internal Revenue Code
10 for which the purchaser certifies that he or she is entitled to either
11 a direct refund or credit against his or her income tax for the federal
12 excise tax paid or for which the purchaser issues a certificate
13 pursuant to Section 6245.5.
- 14 (5) The amount of any tax imposed by any city, county, city
15 and county, or rapid transit district within the State of California
16 upon or with respect to retail sales of tangible personal property,
17 measured by a stated percentage of sales price or gross receipts,
18 whether imposed upon the retailer or the consumer.
- 19 (6) The amount of any tax imposed by any city, county, city
20 and county, or rapid transit district within the State of California
21 with respect to the storage, use or other consumption in that city,
22 county, city and county, or rapid transit district of tangible personal
23 property measured by a stated percentage of sales price or purchase
24 price, whether the tax is imposed upon the retailer or the consumer.
- 25 (7) Separately stated charges for transportation from the
26 retailer's place of business or other point from which shipment is
27 made directly to the purchaser, but the exclusion shall not exceed
28 a reasonable charge for transportation by facilities of the retailer
29 or the cost to the retailer of transportation by other than facilities
30 of the retailer. However, if the transportation is by facilities of the
31 retailer, or the property is sold for a delivered price, this exclusion
32 shall be applicable solely with respect to transportation which
33 occurs after the purchase of the property is made.
- 34 (8) Charges for transporting landfill from an excavation site to
35 a site specified by the purchaser, either if the charge is separately
36 stated and does not exceed a reasonable charge or if the entire
37 consideration consists of payment for transportation.
- 38 (9) The amount of any motor vehicle, mobilehome, or
39 commercial coach fee or tax imposed by and paid the State of
40 California that has been added to or is measured by a stated

1 percentage of the sales or purchase price of a motor vehicle,
2 mobilehome, or commercial coach.

3 (10) (A) The amount charged for intangible personal property
4 transferred with tangible personal property in any technology
5 transfer agreement, if the technology transfer agreement separately
6 states a reasonable price for the tangible personal property.

7 (B) If the technology transfer agreement does not separately
8 state a price for the tangible personal property, and the tangible
9 personal property or like tangible personal property has been
10 previously sold or leased, or offered for sale or lease, to third
11 parties at a separate price, the price at which the tangible personal
12 property was sold, leased, or offered to third parties shall be used
13 to establish the retail fair market value of the tangible personal
14 property subject to tax. The remaining amount charged under the
15 technology transfer agreement is for the intangible personal
16 property transferred.

17 (C) If the technology transfer agreement does not separately
18 state a price for the tangible personal property, and the tangible
19 personal property or like tangible personal property has not been
20 previously sold or leased, or offered for sale or lease, to third
21 parties at a separate price, the retail fair market value shall be equal
22 to 200 percent of the cost of materials and labor used to produce
23 the tangible personal property subject to tax. The remaining amount
24 charged under the technology transfer agreement is for the
25 intangible personal property transferred.

26 (D) For purposes of this paragraph, “technology transfer
27 agreement” means any agreement under which a person who holds
28 a patent or copyright interest assigns or licenses to another person
29 the right to make and sell a product or to use a process that is
30 subject to the patent or copyright interest.

31 (11) The amount of any tax imposed upon diesel fuel pursuant
32 to Part 31 (commencing with Section 60001).

33 (12) (A) The amount of tax imposed by any Indian tribe within
34 the State of California with respect to a retail sale of tangible
35 personal property measured by a stated percentage of the sales or
36 purchase price, whether the tax is imposed upon the retailer or the
37 consumer.

38 (B) The exclusion authorized by subparagraph (A) shall only
39 apply to those retailers who are in substantial compliance with this
40 part.

1 (13) (A) The value of a motor vehicle traded in for a qualified
2 motor vehicle if the value of the trade-in motor vehicle is separately
3 stated on the qualified motor vehicle invoice or bill of sale or
4 similar document provided to the purchaser.

5 (B) For purposes of this paragraph, “qualified motor vehicle”
6 means a motor vehicle that meets either of the following:

7 (i) California’s super ultra-low emission vehicle standard for
8 exhaust emissions and the federal inherently low-emission vehicle
9 evaporative emission standard, as defined in Part 88 (commencing
10 with Section 88.101-94) of Title 40 of the Code of Federal
11 Regulations as that part read on January 1, 2016.

12 (ii) California’s enhanced advanced technology partial
13 zero-emission vehicle standard or transitional zero-emission vehicle
14 standard.

15 (C) Consistent with Section 2230, moneys from the Greenhouse
16 Gas Reduction Fund, created pursuant to Section 16428.8 of the
17 Government Code, shall be available, upon appropriation by the
18 Legislature, for allocation to reimburse counties and cities for any
19 revenue losses resulting from the application of this paragraph.

20 SEC. 6. Section 6012 of the Revenue and Taxation Code is
21 amended to read:

22 6012. (a) “Gross receipts” mean the total amount of the sale
23 or lease or rental price, as the case may be, of the retail sales of
24 retailers, valued in money, whether received in money or otherwise,
25 without any deduction on account of any of the following:

26 (1) The cost of the property sold. However, in accordance with
27 any rules and regulations as the board may prescribe, a deduction
28 may be taken if the retailer has purchased property for some other
29 purpose than resale, has reimbursed his or her vendor for tax which
30 the vendor is required to pay to the state or has paid the use tax
31 with respect to the property, and has resold the property prior to
32 making any use of the property other than retention, demonstration,
33 or display while holding it for sale in the regular course of business.
34 If that deduction is taken by the retailer, no refund or credit will
35 be allowed to his or her vendor with respect to the sale of the
36 property.

37 (2) The cost of the materials used, labor or service cost, interest
38 paid, losses, or any other expense.

39 (3) The cost of transportation of the property, except as excluded
40 by other provisions of this section.

1 (4) The amount of any tax imposed by the United States upon
2 producers and importers of gasoline and the amount of any tax
3 imposed pursuant to Part 2 (commencing with Section 7301) of
4 this division.

5 (b) The total amount of the sale or lease or rental price includes
6 all of the following:

7 (1) Any services that are a part of the sale.

8 (2) All receipts, cash, credits and property of any kind.

9 (3) Any amount for which credit is allowed by the seller to the
10 purchaser.

11 (c) "Gross receipts" do not include any of the following:

12 (1) Cash discounts allowed and taken on sales.

13 (2) Sale price of property returned by customers when that entire
14 amount is refunded either in cash or credit, but this exclusion shall
15 not apply in any instance when the customer, in order to obtain
16 the refund, is required to purchase other property at a price greater
17 than the amount charged for the property that is returned. For the
18 purpose of this section, refund or credit of the entire amount shall
19 be deemed to be given when the purchase price less rehandling
20 and restocking costs are refunded or credited to the customer. The
21 amount withheld for rehandling and restocking costs may be a
22 percentage of the sales price determined by the average cost of
23 rehandling and restocking returned merchandise during the
24 previous accounting cycle.

25 (3) The price received for labor or services used in installing or
26 applying the property sold.

27 (4) (A) The amount of any tax (not including, however, any
28 manufacturers' or importers' excise tax, except as provided in
29 subparagraph (B)) imposed by the United States upon or with
30 respect to retail sales whether imposed upon the retailer or the
31 consumer.

32 (B) The amount of manufacturers' or importers' excise tax
33 imposed pursuant to Section 4081 of the Internal Revenue Code
34 for which the purchaser certifies that he or she is entitled to either
35 a direct refund or credit against his or her income tax for the federal
36 excise tax paid or for which the purchaser issues a certificate
37 pursuant to Section 6245.5.

38 (5) The amount of any tax imposed by any city, county, city
39 and county, or rapid transit district within the State of California
40 upon or with respect to retail sales of tangible personal property

1 measured by a stated percentage of sales price or gross receipts
2 whether imposed upon the retailer or the consumer.

3 (6) The amount of any tax imposed by any city, county, city
4 and county, or rapid transit district within the State of California
5 with respect to the storage, use or other consumption in that city,
6 county, city and county, or rapid transit district of tangible personal
7 property measured by a stated percentage of sales price or purchase
8 price, whether the tax is imposed upon the retailer or the consumer.

9 (7) Separately stated charges for transportation from the
10 retailer's place of business or other point from which shipment is
11 made directly to the purchaser, but the exclusion shall not exceed
12 a reasonable charge for transportation by facilities of the retailer
13 or the cost to the retailer of transportation by other than facilities
14 of the retailer. However, if the transportation is by facilities of the
15 retailer, or the property is sold for a delivered price, this exclusion
16 shall be applicable solely with respect to transportation which
17 occurs after the sale of the property is made to the purchaser.

18 (8) Charges for transporting landfill from an excavation site to
19 a site specified by the purchaser, either if the charge is separately
20 stated and does not exceed a reasonable charge or if the entire
21 consideration consists of payment for transportation.

22 (9) The amount of any motor vehicle, mobilehome, or
23 commercial coach fee or tax imposed by and paid to the State of
24 California that has been added to or is measured by a stated
25 percentage of the sales or purchase price of a motor vehicle,
26 mobilehome, or commercial coach.

27 (10) (A) The amount charged for intangible personal property
28 transferred with tangible personal property in any technology
29 transfer agreement, if the technology transfer agreement separately
30 states a reasonable price for the tangible personal property.

31 (B) If the technology transfer agreement does not separately
32 state a price for the tangible personal property, and the tangible
33 personal property or like tangible personal property has been
34 previously sold or leased, or offered for sale or lease, to third
35 parties at a separate price, the price at which the tangible personal
36 property was sold, leased, or offered to third parties shall be used
37 to establish the retail fair market value of the tangible personal
38 property subject to tax. The remaining amount charged under the
39 technology transfer agreement is for the intangible personal
40 property transferred.

1 (C) If the technology transfer agreement does not separately
2 state a price for the tangible personal property, and the tangible
3 personal property or like tangible personal property has not been
4 previously sold or leased, or offered for sale or lease, to third
5 parties at a separate price, the retail fair market value shall be equal
6 to 200 percent of the cost of materials and labor used to produce
7 the tangible personal property subject to tax. The remaining amount
8 charged under the technology transfer agreement is for the
9 intangible personal property transferred.

10 (D) For purposes of this paragraph, “technology transfer
11 agreement” means any agreement under which a person who holds
12 a patent or copyright interest assigns or licenses to another person
13 the right to make and sell a product or to use a process that is
14 subject to the patent or copyright interest.

15 (11) The amount of any tax imposed upon diesel fuel pursuant
16 to Part 31 (commencing with Section 60001).

17 (12) (A) The amount of tax imposed by any Indian tribe within
18 the State of California with respect to a retail sale of tangible
19 personal property measured by a stated percentage of the sales or
20 purchase price, whether the tax is imposed upon the retailer or the
21 consumer.

22 (B) The exclusion authorized by subparagraph (A) shall only
23 apply to those retailers who are in substantial compliance with this
24 part.

25 For purposes of the sales tax, if the retailers establish to the
26 satisfaction of the board that the sales tax has been added to the
27 total amount of the sale price and has not been absorbed by them,
28 the total amount of the sale price shall be deemed to be the amount
29 received exclusive of the tax imposed. Section 1656.1 of the Civil
30 Code shall apply in determining whether or not the retailers have
31 absorbed the sales tax.

32 (13) (A) The value of a motor vehicle traded in for a qualified
33 motor vehicle if the value of the trade-in motor vehicle is separately
34 stated on the qualified motor vehicle invoice or bill of sale or
35 similar document provided to the purchaser.

36 (B) For purposes of this paragraph, “qualified motor vehicle”
37 means a motor vehicle that meets either of the following:

38 (i) California’s super ultra-low emission vehicle standard for
39 exhaust emissions and the federal inherently low-emission vehicle
40 evaporative emission standard, as defined in Part 88 (commencing

1 with Section 88.101-94) of Title 40 of the Code of Federal
2 Regulations as that part read on January 1, 2016.

3 (ii) California’s enhanced advanced technology partial
4 zero-emission vehicle standard or transitional zero-emission vehicle
5 standard.

6 (C) Consistent with Section 2230, moneys from the Greenhouse
7 Gas Reduction Fund, created pursuant to Section 16428.8 of the
8 Government Code, shall be available, upon appropriation by the
9 Legislature, for allocation to reimburse counties and cities for any
10 revenue losses resulting from the application of this paragraph.

11 SEC. 7. Section 5205.5 of the Vehicle Code is amended to
12 read:

13 5205.5. (a) For the purposes of implementing Section 21655.9,
14 the department shall make available for issuance, for a fee
15 determined by the department to be sufficient to reimburse the
16 department for the actual costs incurred pursuant to this section,
17 distinctive decals, labels, and other identifiers that clearly
18 distinguish the following vehicles from other vehicles:

19 (1) A vehicle that meets California’s super ultra-low emission
20 vehicle (SULEV) standard for exhaust emissions and the federal
21 inherently low-emission vehicle (ILEV) evaporative emission
22 standard, as defined in Part 88 (commencing with Section
23 88.101-94) of Title 40 of the Code of Federal Regulations.

24 (2) A vehicle that was produced during the 2004 model year or
25 earlier and meets California’s ultra-low emission vehicle (ULEV)
26 standard for exhaust emissions and the federal ILEV standard.

27 (3) A vehicle that meets California’s enhanced advanced
28 technology partial zero-emission vehicle (enhanced AT PZEV)
29 standard or transitional zero-emission vehicle (TZEV) standard.

30 (b) The department shall include a summary of the provisions
31 of this section on each motor vehicle registration renewal notice,
32 or on a separate insert, if space is available and the summary can
33 be included without incurring additional printing or postage costs.

34 (c) The Department of Transportation shall remove individual
35 HOV lanes, or portions of those lanes, during periods of peak
36 congestion from the access provisions provided in subdivision (a),
37 following a finding by the Department of Transportation as follows:

38 (1) The lane, or portion thereof, exceeds a level of service C,
39 as discussed in subdivision (b) of Section 65089 of the Government
40 Code.

1 (2) The operation or projected operation of the vehicles
2 described in subdivision (a) in these lanes, or portions thereof, will
3 significantly increase congestion.

4 (3) The finding shall also demonstrate the infeasibility of
5 alleviating the congestion by other means, including, but not
6 limited to, reducing the use of the lane by noneligible vehicles or
7 further increasing vehicle occupancy.

8 (d) The State Air Resources Board shall publish and maintain
9 a listing of all vehicles eligible for participation in the programs
10 described in this section. The board shall provide that listing to
11 the department.

12 (e) (1) For the purposes of subdivision (a), the Department of
13 the California Highway Patrol and the department, in consultation
14 with the Department of Transportation, shall design and specify
15 the placement of the decal, label, or other identifier on the vehicle.
16 Each decal, label, or other identifier issued for a vehicle shall
17 display a unique number, which shall be printed on or affixed to
18 the vehicle registration.

19 (2) Decals, labels, or other identifiers designed pursuant to this
20 subdivision for a vehicle described in paragraph (3) of subdivision
21 (a) shall be distinguishable from the decals, labels, or other
22 identifiers that are designed for vehicles described in paragraphs
23 (1) and (2) of subdivision (a).

24 (f) [Reserved]

25 (g) If the Metropolitan Transportation Commission, serving as
26 the Bay Area Toll Authority, grants toll-free and reduced-rate
27 passage on toll bridges under its jurisdiction to a vehicle pursuant
28 to Section 30102.5 of the Streets and Highways Code, it shall also
29 grant the same toll-free and reduced-rate passage to a vehicle
30 displaying an identifier issued by the department pursuant to
31 paragraph (1) or (2) of subdivision (a).

32 (h) (1) Notwithstanding Section 21655.9, and except as
33 provided in paragraph (2), a vehicle described in subdivision (a)
34 that displays a decal, label, or identifier issued pursuant to this
35 section shall be granted a toll-free or reduced-rate passage in
36 high-occupancy toll lanes as described in Section 149.7 of the
37 Streets and Highways Code unless prohibited by federal law.

38 (2) (A) Paragraph (1) does not apply to the imposition of a toll
39 imposed for passage on a toll road or toll highway that is not a

1 high-occupancy toll lane as described in Section 149.7 of the
2 Streets and Highways Code.

3 (B) On or before March 1, 2014, paragraph (1) does not apply
4 to the imposition of a toll imposed for passage in lanes designated
5 for tolls pursuant to the federally supported value pricing and
6 transit development demonstration program operated pursuant to
7 Section 149.9 of the Streets and Highways Code for State Highway
8 Route 10 or 110.

9 (C) Paragraph (1) does not apply to the imposition of a toll
10 charged for crossing a state-owned bridge.

11 (i) If the Director of Transportation determines that federal law
12 does not authorize the state to allow vehicles that are identified by
13 distinctive decals, labels, or other identifiers on vehicles described
14 in subdivision (a) to use highway lanes or highway access ramps
15 for high-occupancy vehicles regardless of vehicle occupancy, the
16 Director of Transportation shall submit a notice of that
17 determination to the Secretary of State.

18 (j) This section shall become inoperative on January 1, 2019,
19 or the date the federal authorization pursuant to Section 166 of
20 Title 23 of the United States Code expires, or the date the Secretary
21 of State receives the notice described in subdivision (i), whichever
22 occurs first, and, as of January 1, 2019, is repealed, unless a later
23 enacted statute, that becomes operative on or before January 1,
24 2019, deletes or extends the dates on which it becomes inoperative
25 and is repealed.