

AMENDED IN SENATE MARCH 29, 2016

SENATE BILL

No. 1161

Introduced by Senator Allen

February 18, 2016

An act to ~~amend Section 335 of~~ *add Section 342.5 to* the Code of Civil Procedure, relating to statutes of limitation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Allen. Statutes of ~~limitation.~~ *limitation: California Climate Science Truth and Accountability Act of 2016.*

Existing law requires an action alleging unfair competition, as defined, to be commenced within 4 years after the cause of action accrued.

This bill would, for actions brought by the Attorney General or certain public prosecutors, extend the time period for the commencement of an action for unfair competition with respect to scientific evidence regarding the existence, extent, or current or future impacts of anthropogenic induced climate change to within 30 years of an act giving rise to the cause of action. The bill would revive actions that are time-barred as of January 1, 2017, as specified.

~~Existing law delineates the provisions setting forth the periods prescribed for the commencement of actions other than for the recovery of real property.~~

~~This bill would make a technical, nonsubstantive change in that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. *This act shall be known, and may be cited, as the*
2 *California Climate Science Truth and Accountability Act of 2016.*
3 SEC. 2. (a) *The Legislature finds and declares all of the*
4 *following:*
5 (1) *There is broad scientific consensus that anthropogenic global*
6 *warming is occurring and changing the world’s climate patterns,*
7 *and that the primary cause is the emission of greenhouse gases*
8 *from the production and combustion of fossil fuels, such as coal,*
9 *oil, and natural gas.*
10 (2) *The United States Environmental Protection Agency*
11 *(USEPA) states that the buildup of atmospheric greenhouse gases*
12 *results in impacts that include the following:*
13 (A) *Changing temperature and precipitation patterns.*
14 (B) *Increases in ocean temperatures, sea level, and acidity.*
15 (C) *Melting of glaciers and sea ice.*
16 (D) *Changes in the frequency, intensity, and duration of extreme*
17 *weather events.*
18 (E) *Shifts in ecosystem characteristics, such as the length of the*
19 *growing season, timing of flower blooms, and migration of birds.*
20 (F) *Increased threats to human health.*
21 (3) *Impacts and damages from emissions of greenhouse gases*
22 *that cause climate change have been occurring for many years*
23 *and will be felt from decades to centuries after those emissions*
24 *have occurred. The USEPA states, “[b]ecause many of the major*
25 *greenhouse gases stay in the atmosphere for tens to hundreds of*
26 *years after being released, their warming effects on the climate*
27 *persist over a long time and can therefore affect both present and*
28 *future generations.”*
29 (4) *Reports and documentation published by researchers, public*
30 *interest nongovernmental organizations, and media in recent years*
31 *show that some fossil fuel companies were aware by the late 1970s*
32 *of scientific studies showing that carbon dioxide emissions from*
33 *fossil fuel combustion pose significant risk of harmful global*
34 *warming. The reports and documents also indicate that by the*
35 *mid-1980s fossil fuel company scientists were confirming in*
36 *internal documents intended for company management that*
37 *emissions from fossil fuel were contributing significantly to climate*

1 *change, and companies were factoring global warming into their*
2 *own business investments.*

3 *(5) By 1988, the scientific evidence of climate change and the*
4 *significant risks it poses was widely communicated to the public*
5 *and was confirmed in congressional testimony by the National*
6 *Aeronautic and Space Administration (NASA). In that year, the*
7 *United Nations formed the Intergovernmental Panel on Climate*
8 *Change and the federal National Energy Policy Act of 1988 (House*
9 *Resolution 5380, 100th Congress) was introduced in Congress in*
10 *an effort to reduce the emissions of greenhouse gases. Because of*
11 *the highly public dissemination of information, congressional*
12 *discussion, and extensive media coverage of the robust scientific*
13 *evidence of the risks of continued burning of fossil fuel products,*
14 *major fossil fuel producers knew or should have known the risks*
15 *of continued burning of their products by 1988.*

16 *(6) More than half of all industrial carbon emissions have been*
17 *released since 1988, after the fossil fuel businesses knew of the*
18 *harm their products might cause, and have substantially increased*
19 *risks from climate change impacts to life, health, and property.*

20 *(7) Since at least 1989, published reports indicate that some of*
21 *these same entities have put sustained and significant efforts and*
22 *resources into creating public doubt on the science related to*
23 *climate change caused by anthropogenic sources.*

24 *(8) Misleading and inaccurate information disseminated by*
25 *organizations and representatives backed by fossil fuel companies,*
26 *along with advertising and publicity casting doubt on scientific*
27 *understanding of climate change, have led to confusion,*
28 *disagreement, and unnecessary controversy over the causes of*
29 *climate change and the effects of emissions of greenhouse gases.*
30 *This type of misinformation, widely and broadly disseminated in*
31 *the media, has long delayed public understanding of the risks of*
32 *continuing to emit high levels of greenhouse gases, confused and*
33 *polarized the public on the need to aggressively reduce emissions*
34 *to limit risks from climate change, and increased damage to public*
35 *safety, health, and property in California as well as nationally and*
36 *globally.*

37 *(9) Scientific studies indicate that climate change impacts are*
38 *occurring in California, causing significant damage to the*
39 *economy, environment, and public health. In a 2013 report on*
40 *climate change indicators, the Office of Environmental Health*

1 *Hazard Assessment found that California is already experiencing*
2 *serious and measurable impacts from atmospheric warming in the*
3 *state's weather, water systems, high wildfire frequency and*
4 *intensity, plant and animal species health, and human health and*
5 *morbidity.*

6 *(10) Climate change has been tied by scientists to the severity*
7 *and intensity of the historically unprecedented and costly drought*
8 *that California has been experiencing since 2011 that has resulted*
9 *in communities running out of water, agricultural water cutbacks,*
10 *and unprecedented groundwater use that has caused subsidence*
11 *and a loss of storage capacity in the state's critical aquifers.*

12 *(11) An independent bipartisan report, published in 2014,*
13 *indicates that, by 2050, California will be suffering economic*
14 *losses of tens of billions of dollars due to climate change-related*
15 *impacts and that heat-related deaths could be twice the number*
16 *of current traffic-related deaths annually by late 21st century.*

17 *(b) It is the intent of the Legislature to retroactively revive and*
18 *extend the statute of limitation for actions that may or may not be*
19 *barred by the applicable statute of limitation existing before*
20 *January 1, 2017, that seek redress for unfair competition practices*
21 *committed by entities that have deceived, confused, or misled the*
22 *public on the risks of climate change or financially supported*
23 *activities that have deceived, confused, or misled the public on*
24 *those risks.*

25 *SEC. 3. Section 342.5 is added to the Code of Civil Procedure,*
26 *to read:*

27 *342.5. (a) (1) Notwithstanding Section 17208 of the Business*
28 *and Professions Code, an action may be brought pursuant to*
29 *Chapter 5 (commencing with Section 17200) of Part 2 of Division*
30 *7 of the Business and Professions Code against a corporation,*
31 *firm, partnership, joint stock company, association, or other*
32 *organization of persons that has directly or indirectly engaged in*
33 *unfair competition, as defined in Section 17200 of the Business*
34 *and Profession Code, with respect to scientific evidence regarding*
35 *the existence, extent, or current or future impacts of anthropogenic*
36 *induced climate change if the action is commenced within 30 years*
37 *of an act giving rise to the cause of action.*

38 *(2) Actions that are otherwise barred as of January 1, 2017,*
39 *solely because the statute of limitation specified in Section 17208*
40 *of the Business and Professions Code has or had expired are*

1 *revived to the extent that the actions are commenced within 30*
2 *years of an act giving rise to the cause of action.*

3 *(3) Paragraph (2) does not apply to an action against an entity*
4 *who is a party to a prior action brought to enforce a cause of*
5 *action pursuant to Chapter 5 (commencing with Section 17200)*
6 *of Part 2 of Division 7 of the Business and Professions Code for*
7 *which a final and nonappealable judgment has been rendered.*

8 *(b) This section applies only to actions brought by the Attorney*
9 *General, a district attorney, or a city attorney of a city having a*
10 *population in excess of 750,000.*

11 ~~SECTION 1. Section 335 of the Code of Civil Procedure is~~
12 ~~amended to read:~~

13 ~~335. The periods prescribed for the commencement of actions~~
14 ~~other than for the recovery of real property are as set forth in this~~
15 ~~chapter.~~