

AMENDED IN SENATE SEPTEMBER 12, 1995

AMENDED IN ASSEMBLY MAY 23, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1855

Introduced by Assembly Member Sher

February 24, 1995

An act to amend Section ~~39616~~ of, and to add Section ~~42300.3~~ Section 41701.5 of, and to add Section 41701.6 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1855, as amended, Sher. Air pollution: ~~market-based incentive programs: permits emission limits.~~

Existing law prohibits, with specified exceptions, the discharge of air contaminants into the atmosphere that exceed a specified shade or opacity.

This bill would prohibit the State Air Resources Board or any air pollution control district or air quality management district from imposing a discharge requirement on emissions of visible smoke, as specified, from any diesel engine or generator used exclusively to operate a drinking water system in specified circumstances. The bill would also make technical changes.

~~(1) Existing law required that a district's plan for the attainment of the state or federal ambient air quality standards or plan revision submitted to the State Air Resources Board prior to January 1, 1993, be designed to~~

~~achieve equivalent emission reductions and reduced costs and job impacts compared to current command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's implementation plan, and required the state board, not later than 90 days after the program has been submitted, or by April 1, 1993, whichever is sooner, to determine whether the program complies with those provisions.~~

~~This bill would delete those obsolete provisions.~~

~~(2) Existing law authorizes districts to establish a permit system for specified air pollution sources.~~

~~This bill would require districts with over 250,000 population to adopt a process and format for the issuance of 1 or more standardized permits, as defined, thereby imposing a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

- 1 SECTION 1. ~~Section 39616 of the Health and Safety~~
- 2 SECTION 1. *Section 41701.5 of the Health and Safety*
- 3 *Code is amended to read:*
- 4 41701.5. (a) Neither the state board nor any district
- 5 shall impose a discharge requirement on emissions of
- 6 visible smoke from diesel pile-driving hammers which is
- 7 more stringent than the requirements of this section,
- 8 except as provided in subdivisions (b) and (c).
- 9 (b) A district shall issue a permit to the operator of a
- 10 diesel pile-driving hammer if the operator submits a
- 11 completed application for a permit to the district and the
- 12 district determines, on the basis of information provided
- 13 in the application, that the proposed use will comply with
- 14 one of the following requirements:



1 (1) Meets the ~~Ringelmann~~ *Ringelmann* 1 limit, as
2 published by the United States Bureau of Mines, and does
3 not exceed that limit for more than four minutes during
4 the driving of a single pile.

5 (2) Meets the ~~Ringelmann~~ *Ringelmann* 2 limit, as
6 published by the United States Bureau of Mines, does not
7 exceed that limit for more than four minutes during the
8 driving of a single pile, and uses kerosene fuel, smoke
9 suppressing fuel additives, and synthetic lubricating oil.
10 A district may establish other requirements for
11 compliance with this paragraph if the requirements are
12 technologically and economically feasible. A district may
13 consider the type of soil in which the pile driving is to
14 occur and the number of blows required to drive a pile in
15 determining the technological and economic feasibility
16 of other conditions to be imposed by the district.

17 (c) A permit issued by a district shall be valid until the
18 pile driving work has been approved or accepted by the
19 person or entity for which the work is being performed.
20 Upon request of an operator or of a person or entity for
21 which the pile driving work is performed, a district may
22 extend the time period for which the permit is valid if the
23 operator continues to comply with this section.

24 *SEC. 2. Section 41701.6 is added to the Health and
25 Safety Code, to read:*

26 *41701.6. Neither the state board nor any district shall
27 impose a discharge requirement on emissions of visible
28 smoke from any diesel auxiliary engine or generator used
29 exclusively to operate a drinking water system which is
30 more stringent than the Ringelmann 2 limit, as published
31 by the United States Bureau of Mines on January 1, 1995,
32 when operated under emergency circumstances, or
33 operated not more than 30 minutes each week, or two
34 hours each month, under nonemergency circumstances.*

35 ~~Code is amended to read:~~

36 ~~39616. (a) The Legislature hereby finds and declares
37 all of the following:~~

38 ~~(1) Several regions in California suffer from some of
39 the worst air quality in the United States.~~



1 ~~(2) While traditional command and control air quality~~
2 ~~regulatory programs are effective in cleaning up the air,~~
3 ~~other options for improvement in air quality, such as~~
4 ~~market-based incentive programs, should be explored,~~
5 ~~provided that those programs result in equivalent~~
6 ~~emission reductions while expending fewer resources~~
7 ~~and while maintaining or enhancing the state's economy.~~

8 ~~(3) The purpose of this section is to establish~~
9 ~~requirements under which a district board may adopt~~
10 ~~market-based incentive programs in a manner which~~
11 ~~achieves the greatest air quality improvement while~~
12 ~~strengthening the state's economy and preserving jobs.~~

13 ~~(b) (1) A district may adopt a market-based incentive~~
14 ~~program as an element of the district's plan for~~
15 ~~attainment of the state or federal ambient air quality~~
16 ~~standards.~~

17 ~~(2) A market-based incentive program that satisfies~~
18 ~~the conditions in this section may substitute for current~~
19 ~~command and control regulations and future air quality~~
20 ~~measures that would otherwise have been adopted as part~~
21 ~~of the district's plan for attainment, and may be~~
22 ~~implemented in lieu of some or all of the control measures~~
23 ~~adopted by the district pursuant to Chapter 10~~
24 ~~(commencing with Section 40910) of Part 3.~~

25 ~~(c) In adopting the rules and regulations to implement~~
26 ~~a program for the use of market-based incentives, a~~
27 ~~district shall, at the time the rules and regulations are~~
28 ~~adopted, make express findings and shall, at the time the~~
29 ~~rules and regulations are submitted to the state board,~~
30 ~~submit appropriate information to substantiate the basis~~
31 ~~for making the findings that each of the following~~
32 ~~conditions is met on an overall districtwide basis:~~

33 ~~(1) The program will result in an equivalent or greater~~
34 ~~reduction in emissions at equivalent or less cost compared~~
35 ~~with current command and control regulations and~~
36 ~~future air quality measures that would otherwise have~~
37 ~~been adopted as part of the district's plan for attainment.~~

38 ~~(2) The program will provide a level of enforcement~~
39 ~~and monitoring, to ensure compliance with emission~~
40 ~~reduction requirements, comparable with command and~~



1 ~~control air quality measures that would otherwise have~~
2 ~~been adopted by the district for inclusion in the district's~~
3 ~~plan for attainment.~~

4 ~~(3) The program will establish a baseline methodology~~
5 ~~that provides appropriate credit so that stationary sources~~
6 ~~of air pollution which have been modified prior to~~
7 ~~implementation of the program to reduce stationary~~
8 ~~source emissions are treated equitably.~~

9 ~~(4) The program will not result in a greater loss of jobs~~
10 ~~or more significant shifts from higher to lower skilled jobs,~~
11 ~~on an overall districtwide basis, than that which would~~
12 ~~exist under command and control air quality measures~~
13 ~~that would otherwise have been adopted as part of the~~
14 ~~district's plan for attainment. A finding of compliance~~
15 ~~with this requirement may be made in the same manner~~
16 ~~as the analyses made by the district to meet the~~
17 ~~requirements of Section 40728.5.~~

18 ~~(5) The program will not in any manner delay,~~
19 ~~postpone, or otherwise hinder district compliance with~~
20 ~~Chapter 10 (commencing with Section 40910) of Part 3.~~

21 ~~(6) The program will not result in disproportionate~~
22 ~~impacts, measured on an aggregate basis, on those~~
23 ~~stationary sources included in the program compared to~~
24 ~~other permitted stationary sources in the district's~~
25 ~~attainment plan.~~

26 ~~(d) (1) A plan or plan revision submitted on or after~~
27 ~~January 1, 1993, shall be designed to meet the provisions~~
28 ~~of subdivision (c) and Section 40440.1 if applicable. The~~
29 ~~state board shall approve the plan or plan revision prior~~
30 ~~to program implementation, and shall make its~~
31 ~~determination not later than 90 days from submittal of the~~
32 ~~plan or plan revision.~~

33 ~~(2) Upon the adoption of rules and regulations to~~
34 ~~implement the program, the district shall submit the~~
35 ~~rules and regulations to the state board. The state board~~
36 ~~shall, within 90 days, determine whether the rules and~~
37 ~~regulations meet the requirements of this section and~~
38 ~~Section 40440.1, if applicable. This paragraph does not~~
39 ~~prohibit the district from implementing the program~~



1 upon the approval of the plan or plan revision and prior
2 to submittal of the implementing rules and regulations.

3 (e) Within five years of the date of adoption of a
4 program for the use of market-based incentives, the
5 district board shall commence public hearings to reassess
6 the program and shall, not later than seven years from the
7 district's initial adoption of the program, ratify the
8 findings required pursuant to paragraphs (1), (2), (5),
9 and (6) of subdivision (c) and the district's compliance
10 with Section 40440.1, if applicable, with the concurrence
11 of the state board. If the district fails to ratify the findings
12 within the seven-year period, the district shall make
13 appropriate revisions to the district's plan for attainment.

14 (f) The district board shall reassess any program
15 subject to this section if the market price of emission
16 trading units exceeds a predetermined level set by the
17 district board. The district board may take action to revise
18 the program. A predetermined market price review level
19 shall be set in a public hearing in consideration of the costs
20 of command and control air quality measures that would
21 otherwise have been adopted as part of the district's plan
22 for attainment, costs and factors submitted by interested
23 parties, and any other factors considered appropriate by
24 the district. The district board may revise the market
25 price review level for emission trading units every three
26 years during attainment plan updates required under
27 Section 40925. In revising the market price review level,
28 the district board shall consider the factors used in setting
29 the initial market price review level as well as other
30 economic impacts, including the overall impact of the
31 program on job loss, rate of business formation, and rate
32 of business closure.

33 (g) For sources not included in market-based
34 incentive programs, this section does not apply to, and
35 shall in no way limit, existing district authority to facilitate
36 compliance with particular emission control measures by
37 imposing or authorizing sourcewide emission caps,
38 alternative emission control plans, stationary for mobile
39 source emission trades, mobile for mobile source emission



1 ~~trades, and similar measures, whether imposed or~~
2 ~~authorized by rule or permit condition.~~

3 ~~(h) This section does not apply to the implementation~~
4 ~~of market-based transportation control measures which~~
5 ~~do not involve emissions trading.~~

6 ~~SEC. 2. Section 42300.3 is added to the Health and~~
7 ~~Safety Code, to read:~~

8 ~~42300.3. (a) On or before January 1, 1997, each~~
9 ~~district with a population of over 250,000 persons shall, to~~
10 ~~the extent existing funds are available, adopt by~~
11 ~~regulation a process and format for the issuance of one or~~
12 ~~more standardized permits for sources of air pollution.~~
13 ~~The permit shall meet all applicable requirements of~~
14 ~~current federal, state, and district laws, rules, and~~
15 ~~regulations.~~

16 ~~(b) For purposes of this section, a “standardized~~
17 ~~permit” means a permit for sources or activities which are~~
18 ~~the same or similar in their nature, and which therefore~~
19 ~~require the submittal of the same or similar information~~
20 ~~for purposes of issuing, monitoring, and enforcing permit~~
21 ~~requirements.~~

22 ~~SEC. 3. No reimbursement is required by this act~~
23 ~~pursuant to Section 6 of Article XIII B of the California~~
24 ~~Constitution because a local agency or school district has~~
25 ~~the authority to levy service charges, fees, or assessments~~
26 ~~sufficient to pay for the program or level of service~~
27 ~~mandated by this act, within the meaning of Section 17556~~
28 ~~of the Government Code.~~

29 ~~Notwithstanding Section 17580 of the Government~~
30 ~~Code, unless otherwise specified, the provisions of this act~~
31 ~~shall become operative on the same date that the act~~
32 ~~takes effect pursuant to the California Constitution.~~

