

AMENDED IN ASSEMBLY JULY 18, 1997

AMENDED IN ASSEMBLY JULY 2, 1997

AMENDED IN SENATE MAY 8, 1997

**SENATE BILL**

**No. 1320**

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**Introduced by Senator Hurtt**

February 28, 1997

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An act to ~~amend~~ *repeal* Section 43845 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1320, as amended, Hurtt. Parking cash-out programs.

~~(1) Existing~~

*Existing* law requires, in any air basin designated by the State Air Resources Board as a nonattainment area, each employer of 50 persons or more who provides a parking subsidy for employees to offer a parking cash-out program.

~~Existing law authorizes those programs to condition employee participation on compliance with employer guidelines designed to avoid neighborhood parking problems.~~

~~This bill would authorize those guidelines to also be designed to avoid problems related to alternative nearby parking~~ *repeal that provision.*

~~(2) Existing law declares the intent of the Legislature that the cash-out requirements apply only to employers who can reduce, without penalty, paid parking spaces and instead provide the cash-out option.~~

~~This bill would delete the declaration of legislative intent and instead provide that the cash-out requirements apply only~~

to employers who can reduce, without penalty, paid parking spaces and instead provide the cash-out option.

The bill would exempt additional employers from the cash-out requirements, as prescribed.

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. Section 43845 of the Health and Safety  
2 SECTION 1. Section 43845 of the Health and Safety  
3 Code is repealed.  
4 43845. (a) In any air basin designated as a  
5 nonattainment area pursuant to Section 39608, each  
6 employer of 50 persons or more who provides a parking  
7 subsidy to employees, shall offer a parking cash-out  
8 program. "Parking cash-out program" means an  
9 employer-funded program under which an employer  
10 offers to provide a cash allowance to an employee  
11 equivalent to the parking subsidy that the employer  
12 would otherwise pay to provide the employee with a  
13 parking space.  
14 (b) A parking cash-out program may include a  
15 requirement that employee participants certify that they  
16 will comply with guidelines established by the employer  
17 designed to avoid neighborhood parking problems, with  
18 a provision that employees not complying with the  
19 guidelines will no longer be eligible for the parking  
20 cash-out program.  
21 (c) As used in this section, the following terms have  
22 the following meanings:  
23 (1) "Employee" means an employee of an employer  
24 subject to this section.  
25 (2) "Parking subsidy" means the difference between  
26 the out-of-pocket amount paid by an employer on a  
27 regular basis in order to secure the availability of an  
28 employee parking space not owned by the employer and  
29 the price, if any, charged to an employee for use of that  
30 space.



1 ~~(d) Subdivision (a) does not apply to any employer~~  
2 ~~who, on or before January 1, 1993, has leased employee~~  
3 ~~parking, until the expiration of that lease or unless the~~  
4 ~~lease permits the employer to reduce, without penalty,~~  
5 ~~the number of parking spaces subject to the lease.~~

6 ~~(e) It is the intent of the Legislature, in enacting this~~  
7 ~~section, that the cash-out requirements apply only to~~  
8 ~~employers who can reduce, without penalty, the number~~  
9 ~~of paid parking spaces they maintain for the use of their~~  
10 ~~employees and instead provide their employees the~~  
11 ~~cash-out option described in this section.~~

12 ~~Code is amended to read:~~

13 ~~43845. (a) In any air basin designated as a~~  
14 ~~nonattainment area pursuant to Section 39608, each~~  
15 ~~employer of 50 persons or more who provides a parking~~  
16 ~~subsidy to employees shall offer a parking cash-out~~  
17 ~~program. “Parking cash-out program” means an~~  
18 ~~employer-funded program under which an employer~~  
19 ~~offers to provide a cash allowance to an employee~~  
20 ~~equivalent to the parking subsidy that the employer~~  
21 ~~would otherwise pay to provide the employee with a~~  
22 ~~parking space.~~

23 ~~(b) A parking cash-out program may include a~~  
24 ~~requirement that employee participants certify that they~~  
25 ~~will comply with guidelines established by the employer~~  
26 ~~designed to avoid neighborhood parking problems and~~  
27 ~~problems related to alternative nearby parking, with a~~  
28 ~~provision that employees not complying with the~~  
29 ~~guidelines will no longer be eligible for the parking~~  
30 ~~cash-out program.~~

31 ~~(c) As used in this section, the following terms have~~  
32 ~~the following meaning:~~

33 ~~(1) “Employee” means an employee of an employer~~  
34 ~~subject to this section.~~

35 ~~(2) “Parking subsidy” means the difference between~~  
36 ~~the out-of-pocket amount paid by an employer on a~~  
37 ~~regular basis to secure the availability of an employee~~  
38 ~~parking space not owned by the employer and the price,~~  
39 ~~if any, charged to an employee for the use of that space.~~



1 ~~(3) “Uncontrolled parking” means parking where~~  
2 ~~ingress and egress is not monitored or where access is not~~  
3 ~~restricted.~~

4 ~~(d) Subdivision (a) does not apply to any of the~~  
5 ~~following:~~

6 ~~(1) Any employer who, on or before January 1, 1993,~~  
7 ~~has leased employee parking, until the expiration of that~~  
8 ~~lease or unless the lease permits the employer to reduce,~~  
9 ~~without penalty, the number of parking spaces subject to~~  
10 ~~the lease.~~

11 ~~(2) Any employer who leases uncontrolled parking for~~  
12 ~~use by employees at the worksite.~~

13 ~~(3) Any employer whose worksite is located within~~  
14 ~~one-fourth mile of free alternative parking that can be~~  
15 ~~readily accessed and used by employees in lieu of the~~  
16 ~~employer’s leased parking spaces.~~

17 ~~(4) Any employer where less than 10 percent of the~~  
18 ~~employees have accepted the employer’s parking~~  
19 ~~cash-out offer.~~

20 ~~(5) Any employer whose parking subsidy per parking~~  
21 ~~space is equivalent to eighty dollars (\$80) per month or~~  
22 ~~less.~~

23 ~~(e) Subdivision (a) shall apply only to employers who~~  
24 ~~can reduce, without penalty, the number of paid parking~~  
25 ~~spaces they maintain for the use of their employees and~~  
26 ~~instead provide their employees the cash-out option~~  
27 ~~described in this section.~~

28 ~~(f) Subdivision (a) shall not apply to any employer~~  
29 ~~until the Internal Revenue Code is amended to treat an~~  
30 ~~employee’s parking space as a qualified transportation~~  
31 ~~fringe benefit excluded from gross income, subject to the~~  
32 ~~limitation on the exclusion contained in paragraph (2) of~~  
33 ~~subsection (f) of Section 132 of Title 26 of the United~~  
34 ~~States Code, when that employee declines to accept the~~  
35 ~~employer’s parking cash-out offer.~~

36 ~~(g) If an employer’s facility is in compliance with a~~  
37 ~~district regulation that provides employers with a menu~~  
38 ~~of options for reducing mobile source emissions, and that~~  
39 ~~menu includes parking cash-out, the employer shall be~~  
40 ~~deemed to be in compliance with subdivision (a).~~



1 ~~However, compliance with such a district regulation shall~~  
2 ~~not constitute compliance with any mandatory parking~~  
3 ~~cash-out requirement imposed by a congestion~~  
4 ~~management agency unless expressly so provided by the~~  
5 ~~congestion management agency.~~

6 ~~(h) Notwithstanding any other provision of this~~  
7 ~~section, subdivision (a) shall apply to any employer~~  
8 ~~located in a commercial development that was granted a~~  
9 ~~reduction in parking requirements pursuant to~~  
10 ~~subdivision (d) of Section 65089 of the Government~~  
11 ~~Code.~~

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