

ASSEMBLY BILL

No. 1544

Introduced by Assembly Member Granlund

February 26, 1999

An act to add Part 3 (commencing with Section 71100) to Division 34 of the Public Resources Code, relating to leaf blowers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1544, as introduced, Granlund. Leaf blowers.

Existing law contains legislative findings and declarations that provide that the State of California has a responsibility to protect the health and welfare of its citizens by the control, prevention, and abatement of noise.

This bill would require the California Environmental Protection Agency to oversee the regulation of leaf blowers and to review all regulatory measures adopted by any state agency or city or county regulating leaf blowers. The bill would require the agency to convene a leaf blower task force, as specified, to develop a model ordinance that a governing body of a city or county may adopt for the purpose of regulating the use of leaf blowers and to develop or adopt a program, as provided, to train and certify gardeners with respect to the responsible use of a leaf blower.

The bill would provide that the governing body of a city, including a chartered city, or a county, that proposes to adopt an ordinance or other regulatory measure that would prohibit or restrict the commercial use of a leaf blower between the hours of 8 a.m. and 6 p.m. on weekdays, shall contract with an

independent entity to perform a socioeconomic assessment of the impact of the proposed ordinance or other regulatory measure on any commercial entity or public agency that uses a leaf blower within the jurisdiction. The bill would require the proposed regulation or other regulatory measure to be adopted in accordance with specified procedures.

The bill would prohibit the governing body of a city, including a chartered city, or county from establishing a noise limitation on leaf blowers consistent with a noise level standard that is greater than 65 dBA. The bill would provide, however, that a noise level standard of 65 dBA or lower may be established if the governing body makes a specified determination.

The bill would establish a rebuttable presumption that an ordinance or other regulatory measure that prohibits the commercial use of a leaf blower within the jurisdiction of a city or county between 8 a.m. and 6 p.m. on weekdays, that is not adopted as required by the bill, creates an economic injury to any person operating a commercial enterprise within the city or county who suffers economic injury as a result of the prohibition.

The bill would provide legislative findings and declarations with respect to its provisions.

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. Part 3 (commencing with Section
2 71100) is added to Division 34 of the Public Resources
3 Code, to read:

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PART 3. LEAF BLOWERS

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7 71100. The California Environmental Protection
8 Agency shall oversee the regulation of leaf blowers in this
9 state and the agency shall review all regulatory measures
10 adopted by any state agency or city or county regulating
11 leaf blowers.



1 71101. (a) The California Environmental Protection
2 Agency shall convene a leaf blower task force that
3 includes representatives from both of the following:

4 (1) Cities and counties interested in regulating the use
5 of leaf blowers.

6 (2) Individuals who operate a leaf blower as part of
7 their occupation.

8 (b) The task force shall do all of the following:

9 (1) Develop a model ordinance that the governing
10 body of a city or county may adopt for the purpose of
11 regulating the use of leaf blowers.

12 (2) Develop a program, or adopt an existing program,
13 to train and certify gardeners with respect to the
14 responsible use of a leaf blower.

15 71102. The governing body of a city, including a
16 chartered city, or county, that proposes to adopt an
17 ordinance or other regulatory measure that would
18 prohibit or restrict the commercial use of a leaf blower
19 between the hours of 8 a.m. and 6 p.m. on weekdays, shall
20 comply with both of the following requirements:

21 (a) Prior to adoption of the ordinance or other
22 regulatory measure, the governing body of the city or
23 county shall contract with an independent entity to
24 perform a socioeconomic assessment of the impact of the
25 proposed ordinance or other regulatory measure on any
26 commercial entity or public agency that uses a leaf
27 blower within the jurisdiction of the city or county.

28 (b) The ordinance or other regulatory measure shall
29 be adopted in accordance with paragraphs (1) and (2) of
30 subdivision (a) of Section 11346.2, paragraphs (1) to (5),
31 inclusive, of subdivision (b) of Section 11346.2, and
32 Sections 11346.3 to 11347.3, inclusive, of the Government
33 Code. The terms “agency” and “state agency,” as used in
34 Sections 11346.2 to 11347.3, inclusive, of the Government
35 Code, mean, for purposes of this section, a city or county
36 and the term “regulation,” as used in those sections,
37 means an ordinance or other regulatory measure. With
38 respect to any requirement in those sections that
39 consideration be given to the effect of the impact of the
40 ordinance or other regulatory measure on business



1 enterprises and individuals, the city or county shall only
2 consider that effect within the jurisdiction of the city or
3 county and, if required, the ability of those businesses and
4 individuals to compete with businesses and individuals in
5 other cities or counties.

6 71103. No ordinance or other regulatory measure
7 adopted pursuant to Section 71102 may establish a noise
8 limitation on leaf blowers consistent with a noise level
9 standard that is greater than 65 dBA, measured at a
10 distance of 50 feet in accordance with testing protocol
11 established by the American National Standard Institute
12 Standard B 175.2. However, a noise level standard lower
13 than 65 dBA measured at 50 feet in accordance with that
14 standard, may be established if the governing body
15 determines, based upon testing conducted by an
16 independent testing laboratory, that more than one
17 manufacturer markets and sells leaf blowers in the state
18 meeting the proposed lower noise level standard.

19 71104. There is a rebuttable presumption affecting
20 the burden of producing evidence that an ordinance or
21 other regulatory measure that prohibits or restricts the
22 commercial use of a leaf blower within the jurisdiction of
23 the city or county between the hours of 8 a.m. and 6 p.m.
24 on weekdays, that is not adopted as required by this part,
25 creates an economic injury to any person operating a
26 commercial enterprise within the city or county who
27 suffers economic injury as a result of that prohibition. The
28 person may file an action to recover treble damages for
29 that injury.

30 71105. It is the intention of the Legislature to occupy
31 the whole field of regulation of the commercial use of leaf
32 blowers as provided in this part and, except as provided
33 in this part, shall be exclusive of all local regulations
34 relating to the regulation of the commercial use of leaf
35 blowers by any city, including a chartered city, or county.

