

AMENDED IN SENATE APRIL 16, 2004

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1247

Introduced by Senator Soto

February 12, 2004

An act to add and repeal Part 4.5 (commencing with Section 42950) of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Soto. Air pollution: Incentive-Based Emission Reduction Program for Internal Combustion Engines.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, and, subject to the powers and duties of the state board, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program to provide grants to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from heavy-duty onroad vehicles, offroad nonrecreation equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural engines, and other high-emitting diesel engines in the state. Existing regulations adopted by the state board establish the Lower-Emission

Schoolbus Program to reduce school children's exposure to air pollution emitted by older schoolbuses through a schoolbus replacement and infrastructure component and a particulate matter retrofit component for diesel schoolbuses, and establish various light-duty vehicle retirement programs to encourage voluntary retirement of older, high-emitting vehicles.

This bill would establish the Incentive-Based Emission Reduction Program for Internal Combustion Engines to reduce unhealthful air emissions from internal combustion engines through the application of financial incentives-based programs. The program would be administered by the state board and the districts. The bill would establish the Incentive-Based Emission Reduction Program for Internal Combustion Engines Trust Fund in the State Treasury, and would make moneys in the trust fund available, upon appropriation by the Legislature, to carry out the purposes of the bill. The bill would authorize moneys from the fund to be expended on incentive programs including, but not limited to, the Carl Moyer Program, the Lower-Emission School Bus Program, light-duty vehicle programs, lawnmower electrification programs, and projects to retrofit or replace agricultural engines and pumps, ~~to the extent that the state board or the district determines that the program mitigates harm caused by the fuel upon which the fee is paid.~~

The bill would require each district that elects to participate in the program to establish funding priorities for pollution source reduction projects after considering specified principles and criteria, coordinate with any local, state, or federal agency, or with any private organization, concerned with reducing emissions from internal combustion engines that it determines appropriate, and identify potential sources of shared funding responsibilities. The bill would require that 50% of the moneys allocated to each district be expended in a manner that directly addresses air pollution or health impacts resulting from the refining and combustion of gasoline and diesel fuel in communities with the most significant exposure to air pollution.

~~This bill would impose a state-mandated local program by imposing additional requirements on any district that elects to participate in the program.~~

The bill would require the state board and the participating districts, commencing March 1, 2007, and until March 1, 2023, inclusive, to provide an annual report to the Legislature on the program.

The bill would repeal these provisions on December 31, 2002.



~~(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Internal combustion engines are the single largest source of
4 air pollution threatening the public health and environment of all
5 Californians.

6 (2) Air pollution control districts and air quality management
7 districts are primarily responsible for reducing the local health
8 effects associated with air pollution in their respective air basins.

9 (3) A number of regulatory and financial incentive programs
10 have been established to reduce emissions from internal
11 combustion engines on a cost-effective basis. Emission reduction
12 benefits of regulatory programs to reduce emissions from internal
13 combustion engines affect future engines and are slow in being
14 realized because of the rate at which older, dirtier engines are
15 retired or replaced. Emission reduction benefits can be accelerated
16 through financial incentive programs that target the retrofit or
17 replacement of older engines. There is, however, no
18 comprehensive program of financial incentives for reducing
19 emissions from internal combustion engines.

20 (4) It is, therefore, necessary that legislation be enacted to
21 establish a comprehensive financial incentives program to reduce
22 emissions from internal combustion engines based on a fair and
23 balanced mix of funding sources demonstrating a nexus with the
24 sources of emissions.



1 (5) The state's air quality program has achieved significant
2 reductions in pollutant emissions from stationary sources, to the
3 point that mobile source emissions are the overwhelming cause of
4 air quality problems in many areas of the state. Despite very
5 significant improvements in both fuel performance and emission
6 standards of new gasoline and diesel powered vehicles, mobile
7 sources have become the dominant source of ozone producing air
8 emissions, accounting for nearly 70 percent of the state inventory.
9 Most of these emissions are from older or poorly-maintained
10 vehicles, particularly gross polluters, and exhaust from other
11 internal combustion engines.

12 (b) It is the intent of the Legislature in enacting the act adding
13 this section that the state board and districts in the state place
14 greater focus on obtaining emissions reductions from mobile
15 sources, especially from gross polluting mobile sources, and that
16 additional emission reduction burdens not be placed on stationary
17 sources due to inadequate control of mobile source emissions.

18 SEC. 2. Part 4.5 (commencing with Section 42950) is added
19 to Division 26 of the Health and Safety Code, to read:

20

21 Part 4.5. Incentive-Based Emission Reduction Program for
22 Internal Combustion Engines

23

24 42950. (a) This part shall be known, and may be cited, as the
25 Incentive-Based Emission Reduction Program for Internal
26 Combustion Engines.

27 (b) The purpose of the program established by this part is to
28 reduce unhealthful air emissions from internal combustion
29 engines through the application of financial incentives-based
30 programs, relying to the greatest extent possible on existing
31 programs with proven cost-effective results. The program shall be
32 administered by the state board and the districts in accordance with
33 this ~~chapter~~ *part*. The administration of the program shall be
34 delegated to the districts where the state board determines feasible.
35 The state board and the districts may request the assistance of other
36 state agencies with relevant expertise and authority to achieve the
37 goals and purposes of this ~~article~~ *part*.

38 42951. For the purposes of this ~~article~~ *part*, the following
39 terms have the following meanings:



1 (a) “Carl Moyer Program” means the Carl Moyer Memorial
2 Air Quality Standards Attainment Program established pursuant
3 to Chapter 9 (commencing with Section 44275) of Part 5.

4 (b) “Diesel fuel” means a liquid that is commonly or
5 commercially known or sold as fuel that is suitable for use in a
6 diesel-powered engine. A liquid meets this requirement if, without
7 further processing or blending, the liquid has practical and
8 commercial fitness for use in a diesel-powered engine.

9 (c) “Fuel emulsification” means a fuel mixture approved by
10 the state board that includes, but is not limited to, water and certain
11 additives, with or without surfactants, to reduce emissions from
12 compression-ignition engines.

13 (d) “Fund” means the Incentive-Based Emission Reduction
14 Program for Internal Combustion Engines Trust Fund established
15 pursuant to Section 42953.

16 (e) “Gasoline” means a volatile mixture of hydrocarbons,
17 generally containing small amounts of additives, suitable for use
18 as a fuel in spark-ignition internal combustion engines.

19 (f) “Lawnmower electrification program” means a program
20 established by a district designed to replace high-emitting lawn
21 and garden equipment with zero-emission models.

22 (g) “Lower-Emission School Bus Program” means the
23 program by that name adopted by regulation by the state board on
24 December 7, 2000, and issued in April 2001, as that program may
25 be amended from time to time.

26 (h) “Light-duty vehicle retirement program” means a program
27 to identify and encourage voluntary retirement of older,
28 high-emitting vehicles and to assist in the repair and replacement
29 of defective emission control system parts that is established by the
30 state board pursuant to Article 10 (commencing with Section
31 44100) of Chapter 5 of Part 5.

32 42952. The state board and the districts shall consider, where
33 applicable, all of following principles and criteria in administering
34 and implementing programs authorized under this part to reduce
35 and mitigate the impacts of emissions from internal combustion
36 engines:

37 (a) Any new mobile source program or any existing mobile
38 source program that *is* considered for funding should demonstrate
39 cost-effectiveness expressed in dollars expended per ton of
40 emissions removed through use of a consistent transparent



1 methodology with statewide applicability for on-and off-road
2 diesel engines, light and medium-duty vehicles, or other internal
3 combustion engines. All projects shall meet a applicable specific
4 cost-effectiveness criteria and 80 percent of all expenditures shall
5 be prioritized based on cost-effectiveness within the
6 cost-effectiveness criteria.

7 (b) Any new program shall demonstrate real emission
8 reductions, including, but not limited to, being both measurable
9 and surplus, through application of realistic program assumptions
10 that reflect current and expected near-term future conditions.

11 (c) Any new statewide program shall be overseen by the state
12 board, and be administered and implemented by local air districts
13 as the state board determines appropriate. The geographic
14 allocation of moneys among air districts should be made in an
15 equitable manner, ~~taking into consideration the location and type~~
16 ~~of fuel that generated the moneys~~ *equitable manner*. District
17 programs shall include retrofits, early retirements, replacements,
18 or identification and repair of gross polluting gasoline or diesel
19 vehicles and engines.

20 (d) Any new program shall be measured by its impact on ozone
21 and PM compliance with state and federal standards, rather than
22 by the type of fuel used by the motor or engine.

23 (e) The implementation of any program shall provide
24 environmental justice in accordance with subdivision (a) of
25 Section 43023.5 to directly reduce ozone and PM concentrations
26 in communities with the most significant exposure to ozone and
27 PM concentrations, including, but not limited to, communities of
28 minority or low-income population.

29 (f) Any program affecting the general public shall have
30 convenience for the general public as an underlying principle.

31 (g) Any new program shall have explicit quantifiable
32 objectives, and shall be accompanied by independent and external
33 periodic reviews of program performance and achievement of
34 targeted emissions reductions at expected costs.

35 (h) Any new program shall consider issues of startup and
36 scalability, and the potential for the program to cause unintended
37 negative consequences.

38 (i) Any new program that addresses emissions in a manner
39 similar to those reductions addressed in existing programs in the
40 same jurisdiction shall incorporate program reforms considered



1 necessary to improve the operational equity of the current program
2 and to meet the other principles described in this section.

3 (j) Emission reductions from any funded and fully
4 implemented projects or programs pursuant to this ~~article~~ *part*
5 shall be included in the state implementation plan, or any revision
6 to that plan, that is submitted to United States Environmental
7 Protection Agency pursuant to the federal Clean Air Act (42
8 U.S.C. 7401 et seq.).

9 42953. (a) The Incentive-Based Emission Reduction
10 Program for Internal Combustion Engines Trust Fund is hereby
11 created in the State Treasury. Moneys in the trust fund shall be
12 available, upon appropriation by the Legislature, to carry out the
13 purposes of this ~~article~~. In addition to monies appropriated by the
14 Legislature, the fund may accept monies from other sources,
15 including, but not limited to, federal and private sector sources.

16 (b) Notwithstanding Sections 16475, 16475.1, and 16480.6 of
17 the Government Code, all of the interest earned on money in the
18 trust fund shall be deposited in the trust fund.

19 (c) Not more than 2.5 percent of the funds deposited in the fund
20 may be used by districts for the cost of administering this program.

21 (d) Moneys in the fund shall be encumbered prior to December
22 31, 2022. Grants may not be made by the state board or a district
23 from the fund after that date.

24 42954. Incentive programs eligible for funding from the fund
25 include, but are not limited to, the following, ~~to the extent that the~~
26 ~~state board or the district determines that the program mitigates~~
27 ~~harm caused by the fuel upon which the fee is paid:~~

28 (a) The Carl Moyer Program, including, but not limited to, fuel
29 emulsification projects to the extent permissible under the
30 program.

31 (b) The Lower-Emission School Bus Program.

32 (c) Light-duty vehicle retirement programs.

33 (d) Lawnmower electrification programs.

34 (e) Projects to retrofit or replace agricultural engines and
35 pumps.

36 42955. Each district that participates in a program described
37 in Section 42954 shall do all of the following:

38 (a) Establish funding priorities for pollution source reduction
39 projects after considering all of the principles and criteria
40 described in Section 42952.



1 (b) Coordinate with any local, state, or federal agency, or with
2 any private organization, concerned with reducing emissions from
3 internal combustion engines that it determines to be appropriate.

4 (c) Identify potential sources of shared funding
5 responsibilities, including, but not limited to, any of the following
6 sources:

7 (1) State.

8 (2) Federal.

9 (3) Private.

10 42956. Each district shall expend fifty percent (50%) of the
11 moneys it receives from the fund in a manner that directly
12 addresses air pollution or health impacts resulting from the
13 refining and combustion of gasoline and diesel fuel in
14 communities with the most significant exposure to air pollution,
15 consistent with subdivisions (a) and (b) of Section 43023.5.

16 42957. (a) The responsibilities of the state board or the
17 participating district, as applicable, with respect to programs
18 implemented pursuant to this article shall include management of
19 program funds and program oversight.

20 (b) The state board shall have primary responsibility for any
21 federal reporting aspects of each program.

22 (c) The responsibilities of a district shall include, but are not
23 limited to, local administration of project funds, monitoring
24 funded projects, and reporting results to the state board. Any
25 project funds awarded to a successful applicant shall be disbursed
26 by the district.

27 (d) The state board and the districts shall ensure that emissions
28 reductions achieved through the program are, to the extent
29 permissible under state and federal law, credited by the United
30 States Environmental Protection Agency to the appropriate
31 emission reduction objectives in the State Implementation Plan.

32 42958. (a) The state board shall assist the districts with
33 developing procedures to monitor whether the emission
34 reductions projected in successful grant applications are achieved.
35 Monitoring procedures may include, but are not limited to, project
36 audits, and the requirement that each grant recipient provide
37 information about the project on an annual basis as part of the grant
38 agreement between the state board or districts and the grant
39 recipient. The state board and the district shall minimize, to the
40 extent feasible, the information that is required from grant



1 recipients, and shall develop a simple and convenient format for
2 reporting the required information.

3 (b) The monitoring procedures developed pursuant to
4 subdivision (a) shall allow emission reductions generated to be
5 fully credited to air quality plans.

6 (c) The state board shall monitor district programs to ensure
7 that participating districts conduct their programs consistent with
8 the principles and criteria described in Section 42952.

9 42959. Not later than March 1, 2007, and each March 1
10 thereafter until March 1, 2023, inclusive, the state board, in
11 cooperation with participating districts, shall provide the
12 Legislature with a program report. The report shall include, but
13 shall not be limited to, all of the following:

14 (a) A detailed review of the moneys received, moneys granted,
15 moneys reserved for grants based on project approvals, and shared
16 funding responsibilities, and the sources of those moneys.

17 (b) An estimate of future demand for grant moneys.

18 (c) A description of the overall effectiveness of the program in
19 delivering the emission reductions required by air quality plans,
20 including, but not limited to, the rate of progress plans and
21 milestone and conformity tests, as well as attainment and
22 maintenance plans.

23 42960. If any provision of this part or the application thereof
24 to any person or circumstance is held invalid, it is the intent of the
25 Legislature that the invalidity not affect other provisions or
26 applications of the part that can be given effect without the invalid
27 provision or application, and to this end the provisions of this part
28 are severable.

29 42961. This part shall remain in effect only until December
30 31, 2022, and as of that date is repealed, unless a later enacted
31 statute, that is enacted before December 31, 2002, deletes or
32 extends that date.

33 ~~SEC. 3. Notwithstanding Section 17610 of the Government~~
34 ~~Code, if the Commission on State Mandates determines that this~~
35 ~~act contains costs mandated by the state, reimbursement to local~~
36 ~~agencies and school districts for those costs shall be made pursuant~~
37 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
38 ~~2 of the Government Code. If the statewide cost of the claim for~~
39 ~~reimbursement does not exceed one million dollars (\$1,000,000);~~



1 reimbursement shall be made from the State Mandates Claims
2 Fund.

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