

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2311

Introduced by Assembly Member Mendoza

February 19, 2010

An act to add Section 38569 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2311, as amended, Mendoza. California Global Warming Solutions Act of 2006: transportation fuels: review.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reduction.

This bill would require the state board to review any regulation adopted by the state board that establishes greenhouse gas emission *requirements or* standards for transportation fuels and adopt a report relating to this review, as provided. The bill would require the state board, based on that report, to *either readopt the regulation without revision or* revise the compliance schedule or schedules in the regulation, *or other provisions of the regulation*, to avoid *unreasonable* impacts on California fuel supplies or prices, competitiveness of California businesses relative to out of state or international competitors,

unreasonable impacts on the California economy, and *unreasonable* impacts on California small businesses.

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. Section 38569 is added to the Health and Safety
2 Code, to read:

3 38569. (a) No later than ~~December 31, 2011~~ *January 1, 2012*,
4 and at least every three years thereafter, the state board shall review
5 any regulation adopted by the state board that establishes
6 greenhouse gas emission standards *or requirements, including*
7 *carbon intensity requirements*, for transportation fuels and adopt
8 a report relating to that review.

9 (b) (1) For each review pursuant to subdivision (a), the
10 executive officer of the state board shall publish a draft review
11 report that contains the information described in subdivision (c),
12 for a 45-day public comment period, at least 90 days prior to
13 presenting the draft review report to the state board. The executive
14 officer of the state board shall use generally accepted modeling
15 and analytical methods in preparing the draft review report.

16 (2) During the public comment period, the State Energy
17 Resources Conservation and Development Commission, the Public
18 Utilities Commission, the Department of General Services, the
19 Department of Food and Agriculture, the Natural Resources
20 Agency, the State Water Resources Control Board, the State
21 Department of Public Health, the Department of Finance, *the LCFS*
22 *advisory panel formed pursuant to subdivision (b) of Section 95489*
23 *of Title 17 of the California Code of Regulations*, and the
24 Legislative Analyst shall provide written comments on the draft
25 review report.

26 (3) During the public comment period, the executive officer of
27 the state board shall obtain an external peer review of the draft
28 review report.

29 (4) Following receipt of the peer review described in paragraph
30 (3), public comments, and the comments of the agencies described
31 in paragraph (2), the executive officer of the state board shall
32 *consider and* prepare a written response to the comments and peer
33 review at least 15 days prior to presentation of the final report to

1 the state board. The final report shall be revised to address
2 comments received from the public, *the peer reviewers*, and the
3 agencies described in paragraph (2).

4 (5) The executive officer of the state board shall present the
5 final review report to the state board at a regularly scheduled public
6 hearing prior to the completion date set forth in subdivision (a).
7 At that hearing, the state board shall take public testimony on the
8 review report and shall adopt, *revise*, or reject the report by a
9 majority vote of the state board.

10 (c) The draft and final reports shall address, at a minimum, all
11 of the following:

12 (1) The regulation's progress against its targets.

13 (2) Adjustments to the compliance schedule that are needed.

14 (3) Advances in full fuel life-cycle assessments.

15 (4) Advances in fuels and production technologies, including
16 the feasibility and cost-effectiveness of these advances.

17 (5) The commercial availability and scope of use of ultra
18 low-carbon fuels to achieve the regulation's standards *and the*
19 *advisability of establishing mechanisms to create incentives for*
20 *greater use of these fuels*.

21 (6) An assessment of supply availabilities and the rates of
22 commercialization of fuels and vehicles.

23 (7) The regulation's impact on the state's fuel supplies.

24 (8) The regulation's impact on state revenues, consumers, and
25 economic growth.

26 (9) An analysis of the public health impacts of the regulation
27 at the state and local level, including the impacts of local
28 infrastructure or fuel production facilities in place or under
29 development to deliver low-carbon fuels, *using a state board*
30 *approved method of analysis developed in consultation with public*
31 *health experts from other government agencies and academia*.

32 (10) An assessment of the air quality impacts in the state
33 associated with the implementation of the regulation, including,
34 but not limited to, whether the use of low-carbon fuels in the state
35 will affect progress towards achieving state or federal air quality
36 standards, or result in any significant changes in toxic air
37 contaminant emissions, and recommendations for mitigation to
38 address adverse air quality impacts identified.

39 (11) Identification of hurdles or barriers including, but not
40 limited to, permitting issues, infrastructure adequacy, and the

1 availability of research funds, and recommendations for addressing
2 these hurdles or barriers.

3 (12) Significant economic issues, fuel adequacy, reliability, and
4 supply issues, and environmental issues that have arisen.

5 (13) The advisability of harmonizing with international, federal,
6 regional, and state regulations, including, but not limited to,
7 competing fuel life-cycle assessments.

8 (d) (1) Prior to publishing a draft of the report as required by
9 subdivision (b), the executive officer of the state board shall consult
10 with public and private persons that would be significantly
11 impacted by the implementation of the regulation to identify those
12 investigative or preventive actions that may be necessary to ensure
13 consumer acceptance, product availability, acceptable performance,
14 and equipment reliability. The significantly impacted persons to
15 be consulted shall include, but are not limited to, fuel
16 manufacturers, *fuel importers*, *fuel developers*, fuel distributors,
17 independent marketers, vehicle manufacturers, *environmental*
18 *organizations*, *environmental justice organizations*, and fuel users.

19 (2) Prior to publishing a draft of the report as required by
20 subdivision (b), the executive officer of the state board shall hold
21 at least two public workshops on the subjects to be covered in the
22 report.

23 (e) Based upon the information in the final report adopted by
24 the state board, the state board shall *either readopt the regulation*
25 *without revision, or* revise the compliance schedule or schedules
26 in the regulation ~~to avoid impacts~~, *or revise other provisions of*
27 *the regulation, to avoid unreasonable impacts* on California fuel
28 supplies or prices, competitiveness of California businesses relative
29 to out of state or international competitors, *unreasonable* impacts
30 on the California economy, and *unreasonable* impacts on California
31 small businesses.