

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 104

**Introduced by Senator Oropeza
(Coauthor: Senator Pavley)**

January 27, 2009

An act to amend Sections 38505 and 38562 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 104, as amended, Oropeza. California Global Warming Solutions Act of 2006: designation of greenhouse gases.

(1) 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 by January 1, 2011, greenhouse gas emission limits and emission reduction measures to achieve the maximum technological feasible and cost-effective greenhouse gas emission reductions.

The act defines greenhouse gases to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

This bill would also include in that definition nitrogen trifluoride and any other gas designated as a greenhouse gas by the United Nations Framework Convention on Climate Change.

The bill would also express the intent of the Legislature that the state board take all feasible actions to include in the regulations to be adopted

pursuant to the act by January 1, 2011, emission limits and emission reduction measures for nitrogen trifluoride. The state board would not be required to adopt, by January 1, 2011, emission limits and emission reduction measures for any ~~other~~ gas designated as a greenhouse gas by the United Nations Framework Convention on Climate Change. *The state board would be required to adopt emission limits and emission reduction measures for a gas designated as a greenhouse gas by the United Nations Framework Convention on Climate Change or by the state board within 2 years of a designation as a greenhouse gas.*

Because a violation of the act is a crime and this bill would expand the scope of the act, this bill would create a state-mandated local program.

(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.

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

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

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

1 SECTION 1. It is the intent of the Legislature that the State
2 Air Resources Board take all feasible actions to include in the
3 regulations to be adopted pursuant to Section 38562 of the Health
4 and Safety Code by January 1, 2011, emission limits and emission
5 reduction measures for nitrogen trifluoride.

6 SEC. 2. Section 38505 of the Health and Safety Code is
7 amended to read:

8 38505. For the purposes of this division, the following terms
9 have the following meanings:

10 (a) "Allowance" means an authorization to emit, during a
11 specified year, up to one ton of carbon dioxide equivalent.

12 (b) "Alternative compliance mechanism" means an action
13 undertaken by a greenhouse gas emission source that achieves the
14 equivalent reduction of greenhouse gas emissions over the same
15 time period as a direct emission reduction, and that is approved
16 by the state board. "Alternative compliance mechanism" includes,
17 but is not limited to, a flexible compliance schedule, alternative
18 control technology, a process change, or a product substitution.

1 (c) “Carbon dioxide equivalent” means the amount of carbon
2 dioxide by weight that would produce the same global warming
3 impact as a given weight of another greenhouse gas, based on the
4 best available science, including from the Intergovernmental Panel
5 on Climate Change.

6 (d) “Cost-effective” or “cost-effectiveness” means the cost per
7 unit of reduced emissions of greenhouse gases adjusted for its
8 global warming potential.

9 (e) “Direct emission reduction” means a greenhouse gas
10 emission reduction action made by a greenhouse gas emission
11 source at that source.

12 (f) “Emissions reduction measure” means programs, measures,
13 standards, and alternative compliance mechanisms authorized
14 pursuant to this division, applicable to sources or categories of
15 sources, that are designed to reduce emissions of greenhouse gases.

16 (g) “Greenhouse gas” or “greenhouse gases” includes all of the
17 following gases:

18 (1) Carbon dioxide.

19 (2) Methane.

20 (3) Nitrous oxide.

21 (4) Hydrofluorocarbons.

22 (5) Perfluorocarbons.

23 (6) Sulfur hexafluoride.

24 (7) Nitrogen trifluoride.

25 (8) Any other gas designated as a greenhouse gas by the United
26 Nations Framework Convention on Climate Change, and any
27 amendments and protocols thereto.

28 (h) “Greenhouse gas emissions limit” means an authorization,
29 during a specified year, to emit up to a level of greenhouse gases
30 specified by the state board, expressed in tons of carbon dioxide
31 equivalents.

32 (i) “Greenhouse gas emission source” or “source” means any
33 source, or category of sources, of greenhouse gas emissions whose
34 emissions are at a level of significance, as determined by the state
35 board, that its participation in the program established under this
36 division will enable the state board to effectively reduce greenhouse
37 gas emissions and monitor compliance with the statewide
38 greenhouse gas emissions limit.

1 (j) “Leakage” means a reduction in emissions of greenhouse
2 gases within the state that is offset by an increase in emissions of
3 greenhouse gases outside the state.

4 (k) “Market-based compliance mechanism” means either of the
5 following:

6 (1) A system of market-based declining annual aggregate
7 emissions limitations for sources or categories of sources that emit
8 greenhouse gases.

9 (2) Greenhouse gas emissions exchanges, banking, credits, and
10 other transactions, governed by rules and protocols established by
11 the state board, that result in the same greenhouse gas emission
12 reduction, over the same time period, as direct compliance with a
13 greenhouse gas emission limit or emission reduction measure
14 adopted by the state board pursuant to this division.

15 (l) “State board” means the State Air Resources Board.

16 (m) “Statewide greenhouse gas emissions” means the total
17 annual emissions of greenhouse gases in the state, including all
18 emissions of greenhouse gases from the generation of electricity
19 delivered to and consumed in California, accounting for
20 transmission and distribution line losses, whether the electricity
21 is generated in state or imported. Statewide emissions shall be
22 expressed in tons of carbon dioxide equivalents.

23 (n) “Statewide greenhouse gas emissions limit” or “statewide
24 emissions limit” means the maximum allowable level of statewide
25 greenhouse gas emissions in 2020, as determined by the state board
26 pursuant to Part 3 (commencing with Section 38550).

27 SEC. 3. Section 38562 of the Health and Safety Code is
28 amended to read:

29 38562. (a) Except as provided in subdivision (g), on or before
30 January 1, 2011, the state board shall adopt greenhouse gas
31 emission limits and emission reduction measures by regulation to
32 achieve the maximum technologically feasible and cost-effective
33 reductions in greenhouse gas emissions in furtherance of achieving
34 the statewide greenhouse gas emissions limit, to become operative
35 beginning on January 1, 2012.

36 (b) In adopting regulations pursuant to this section and Part 5
37 (commencing with Section 38570), to the extent feasible and in
38 furtherance of achieving the statewide greenhouse gas emissions
39 limit, the state board shall do all of the following:

1 (1) Design the regulations, including distribution of emissions
2 allowances where appropriate, in a manner that is equitable, seeks
3 to minimize costs and maximize the total benefits to California,
4 and encourages early action to reduce greenhouse gas emissions.

5 (2) Ensure that activities undertaken to comply with the
6 regulations do not disproportionately impact low-income
7 communities.

8 (3) Ensure that entities that have voluntarily reduced their
9 greenhouse gas emissions prior to the implementation of this
10 section receive appropriate credit for early voluntary reductions.

11 (4) Ensure that activities undertaken pursuant to the regulations
12 complement, and do not interfere with, efforts to achieve and
13 maintain federal and state ambient air quality standards and to
14 reduce toxic air contaminant emissions.

15 (5) Consider cost-effectiveness of these regulations.

16 (6) Consider overall societal benefits, including reductions in
17 other air pollutants, diversification of energy sources, and other
18 benefits to the economy, environment, and public health.

19 (7) Minimize the administrative burden of implementing and
20 complying with these regulations.

21 (8) Minimize leakage.

22 (9) Consider the significance of the contribution of each source
23 or category of sources to statewide emissions of greenhouse gases.

24 (c) In furtherance of achieving the statewide greenhouse gas
25 emissions limit, by January 1, 2011, the state board may adopt a
26 regulation that establishes a system of market-based declining
27 annual aggregate emission limits for sources or categories of
28 sources that emit greenhouse gas emissions, applicable from
29 January 1, 2012, to December 31, 2020, inclusive, that the state
30 board determines will achieve the maximum technologically
31 feasible and cost-effective reductions in greenhouse gas emissions,
32 in the aggregate, from those sources or categories of sources.

33 (d) Any regulation adopted by the state board pursuant to this
34 part or Part 5 (commencing with Section 38570) shall ensure all
35 of the following:

36 (1) The greenhouse gas emission reductions achieved are real,
37 permanent, quantifiable, verifiable, and enforceable by the state
38 board.

39 (2) For regulations pursuant to Part 5 (commencing with Section
40 38570), the reduction is in addition to any greenhouse gas emission

1 reduction otherwise required by law or regulation, and any other
2 greenhouse gas emission reduction that otherwise would occur.

3 (3) If applicable, the greenhouse gas emission reduction occurs
4 over the same time period and is equivalent in amount to any direct
5 emission reduction required pursuant to this division.

6 (e) The state board shall rely upon the best available economic
7 and scientific information and its assessment of existing and
8 projected technological capabilities when adopting the regulations
9 required by this section.

10 (f) The state board shall consult with the Public Utilities
11 Commission in the development of the regulations as they affect
12 electricity and natural gas providers in order to minimize
13 duplicative or inconsistent regulatory requirements.

14 (g) (1) This section does not require the state board to adopt,
15 by January 1, 2011, greenhouse gas emission limits and emission
16 reduction measures for any gas described in paragraph (8) of
17 subdivision (g) of Section 38505.

18 (2) *The state board shall adopt greenhouse gas emission limits
19 and emission reduction measures, consistent with the requirements
20 of this section, for both of the following:*

21 (A) *Any gas described in paragraph (8) of subdivision (g) of
22 Section 38505 within two years of the gas being designated as a
23 greenhouse gas pursuant to that provision.*

24 (B) *Any gas not described in paragraphs (1) to (8), inclusive,
25 of subdivision (g) of Section 38505 designated as a greenhouse
26 gas by the state board within two years of the state board
27 designating the gas as a greenhouse gas.*

28 (h) After January 1, 2011, the state board may revise regulations
29 adopted pursuant to this section and adopt additional regulations
30 to further the provisions of this division.

31 SEC. 4. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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