

ASSEMBLY BILL

No. 1850

Introduced by Assembly Member Charles Calderon

February 22, 2012

An act to amend Section 25402 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1850, as introduced, Charles Calderon. Energy: appliance efficiency.

Existing law authorizes the State Energy Resources Conservation and Development Commission to prescribe, by regulation, appliance efficiency standards, based on reasonable and current use patterns, to promote the use of energy and water efficient appliances.

This bill would make technical, nonsubstantive changes to that provision.

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 25402 of the Public Resources Code is
- 2 amended to read:
- 3 25402. The commission shall, after one or more public
- 4 hearings, do all of the following, in order to reduce the wasteful,
- 5 uneconomic, inefficient, or unnecessary consumption of energy,
- 6 including the energy associated with the use of water:
- 7 (a) (1) Prescribe, by regulation, lighting, insulation climate
- 8 control system, and other building design and construction

1 standards that increase the efficiency in the use of energy and water
2 for new residential and new nonresidential buildings. The
3 commission shall periodically update the standards and adopt any
4 revision that, in its judgment, it deems necessary. Six months after
5 the commission certifies an energy conservation manual pursuant
6 to subdivision (c) of Section 25402.1, no city, county, city and
7 county, or state agency shall issue a permit for any building unless
8 the building satisfies the standards prescribed by the commission
9 pursuant to this subdivision or subdivision (b) that are in effect on
10 the date an application for a building permit is filed. Water
11 efficiency standards adopted pursuant to this subdivision shall be
12 demonstrated by the commission to be necessary to save energy.

13 (2) Prior to adopting a water efficiency standard for residential
14 buildings, the Department of Housing and Community
15 Development and the commission shall issue a joint finding
16 whether the standard (A) is equivalent or superior in performance,
17 safety, and for the protection of life, health, and general welfare
18 to standards in Title 24 of the California Code of Regulations and
19 (B) does not unreasonably or unnecessarily impact the ability of
20 Californians to purchase or rent affordable housing, as determined
21 by taking account of the overall benefit derived from water
22 efficiency standards. Nothing in this subdivision in any way
23 reduces the authority of the Department of Housing and
24 Community Development to adopt standards and regulations
25 pursuant to Part 1.5 (commencing with Section 17910) of Division
26 13 of the Health and Safety Code.

27 (3) Water efficiency standards and water conservation design
28 standards adopted pursuant to this subdivision and subdivision (b)
29 shall be consistent with the legislative findings of this division to
30 ensure and maintain a reliable supply of electrical energy and be
31 equivalent to or superior to the performance, safety, and protection
32 of life, health, and general welfare standards contained in Title 24
33 of the California Code of Regulations. The commission shall
34 consult with the members of the coordinating council as established
35 in Section 18926 of the Health and Safety Code in the development
36 of these standards.

37 (b) (1) Prescribe, by regulation, energy and water conservation
38 design standards for new residential and new nonresidential
39 buildings. The standards shall be performance standards and shall
40 be promulgated in terms of energy consumption per gross square

1 foot of floorspace, but may also include devices, systems, and
2 techniques required to conserve energy and water. The commission
3 shall periodically review the standards and adopt any revision that,
4 in its judgment, it deems necessary. A building that satisfies the
5 standards prescribed pursuant to this subdivision need not comply
6 with the standards prescribed pursuant to subdivision (a). Water
7 conservation design standards adopted pursuant to this subdivision
8 shall be demonstrated by the commission to be necessary to save
9 energy. Prior to adopting a water conservation design standard for
10 residential buildings, the Department of Housing and Community
11 Development and the commission shall issue a joint finding
12 whether the standard (A) is equivalent or superior in performance,
13 safety, and for the protection of life, health, and general welfare
14 to standards in the California Building Standards Code and (B)
15 does not unreasonably or unnecessarily impact the ability of
16 Californians to purchase or rent affordable housing, as determined
17 by taking account of the overall benefit derived from the water
18 conservation design standards. Nothing in this subdivision in any
19 way reduces the authority of the Department of Housing and
20 Community Development to adopt standards and regulations
21 pursuant to Part 1.5 (commencing with Section 17910) of Division
22 13 of the Health and Safety Code.

23 (2) In order to increase public participation and improve the
24 efficacy of the standards adopted pursuant to subdivisions (a) and
25 (b), the commission shall, prior to publication of the notice of
26 proposed action required by Section 18935 of the Health and Safety
27 Code, involve parties who would be subject to the proposed
28 regulations in public meetings regarding the proposed regulations.
29 All potential affected parties shall be provided advance notice of
30 these meetings and given an opportunity to provide written or oral
31 comments. During these public meetings, the commission shall
32 receive and take into consideration input from all parties
33 concerning the parties' design recommendations, cost
34 considerations, and other factors that would affect consumers and
35 California businesses of the proposed standard. The commission
36 shall take into consideration prior to the start of the notice of
37 proposed action any input provided during these public meetings.

38 (3) The standards adopted or revised pursuant to subdivisions
39 (a) and (b) shall be cost-effective when taken in their entirety and
40 when amortized over the economic life of the structure compared

1 with historic practice. When determining cost-effectiveness, the
2 commission shall consider the value of the water or energy saved,
3 impact on product efficacy for the consumer, and the life cycle
4 cost of complying with the standard. The commission shall consider
5 other relevant factors, as required by Sections 18930 and 18935
6 of the Health and Safety Code, including, but not limited to, the
7 impact on housing costs, the total statewide costs and benefits of
8 the standard over its lifetime, economic impact on California
9 businesses, and alternative approaches and their associated costs.

10 (c) (1) Prescribe, by regulation, standards for minimum levels
11 of operating efficiency, based on a reasonable use pattern, and
12 may prescribe other cost-effective measures, including incentive
13 programs, fleet averaging, energy and water consumption labeling
14 not preempted by federal labeling law, and consumer education
15 programs, to promote the use of energy and water efficient
16 appliances whose use, as determined by the commission, requires
17 a significant amount of energy or water on a statewide basis. The
18 minimum levels of operating efficiency shall be based on feasible
19 and attainable efficiencies or feasible improved efficiencies that
20 will reduce the energy or water consumption growth rates. The
21 standards shall become effective no sooner than one year after the
22 date of adoption or revision. ~~No~~ A new appliance manufactured
23 on or after the effective date of the standards ~~may~~ *shall not* be sold
24 or offered for sale in the state, unless it is certified by the
25 manufacturer ~~thereof~~ *of the appliance* to be in compliance with
26 the standards. The standards shall be drawn so that they do not
27 result in any added total costs for consumers over the designed
28 life of the appliances concerned.

29 In order to increase public participation and improve the efficacy
30 of the standards adopted pursuant to this subdivision, the
31 commission shall, prior to publication of the notice of proposed
32 action required by Section 18935 of the Health and Safety Code,
33 involve parties who would be subject to the proposed regulations
34 in public meetings regarding the proposed regulations. All potential
35 affected parties shall be provided advance notice of these meetings
36 and given an opportunity to provide written or oral comments.
37 During these public meetings, the commission shall receive and
38 take into consideration input from all parties concerning the parties'
39 design recommendations, cost considerations, and other factors
40 that would affect consumers and California businesses of the

proposed standard. The commission shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

The standards adopted or revised pursuant to this subdivision shall not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, as required by Sections 11346.5 and 11357 of the Government Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

(2) ~~No~~—A new appliance, except for ~~any~~ plumbing fitting, regulated under paragraph (1), that is manufactured on or after July 1, 1984, ~~may~~ *shall not* be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(3) During the period of five years after the commission has adopted a standard for a particular appliance under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective, unless the commission adopts other cost-effective measures for that appliance.

(4) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the commission finds by a four-fifths vote that a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Before January 1, 1986, the commission shall not take any action to increase a standard prescribing minimum levels of operating efficiency for any appliance or adopt a new standard under paragraph (1). Before January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing

1 business in the state and appropriate trade or industry associations
2 on sales of appliances so that the commission may study the effects
3 of regulations on those sales. These informational requirements
4 shall remain in effect until the information is received. The trade
5 or industry association may submit sales information in an
6 aggregated form in a manner that allows the commission to carry
7 out the purposes of the study. The commission shall treat any sales
8 information of an individual manufacturer as confidential and that
9 information shall not be a public record. The commission shall not
10 request any information that cannot be reasonably produced in the
11 exercise of due diligence by the manufacturer. At least one year
12 prior to the adoption or amendment of a standard for an appliance,
13 the commission shall notify the Legislature of its intent, and the
14 justification to adopt or amend a standard for the appliance.
15 Notwithstanding paragraph (3) and this paragraph, the commission
16 may do any of the following:

17 (A) Increase the minimum level of operating efficiency in an
18 existing standard up to the level of the National Voluntary
19 Consensus Standards 90, adopted by the American Society of
20 Heating, Refrigeration, and Air Conditioning Engineers or, for
21 appliances not covered by that standard, up to the level established
22 in a similar nationwide consensus standard.

23 (B) Change the measure or rating of efficiency of any standard,
24 if the minimum level of operating efficiency remains substantially
25 the same.

26 (C) Adjust the minimum level of operating efficiency in an
27 existing standard in order to reflect changes in test procedures that
28 the standards require manufacturers to use in certifying compliance,
29 if the minimum level of operating efficiency remains substantially
30 the same.

31 (D) Readopt a standard preempted, enjoined, or otherwise found
32 legally defective by an administrative agency or a lower court, if
33 final legal action determines that the standard is valid and if the
34 standard that is readopted is not more stringent than the standard
35 that was found to be defective or preempted.

36 (E) Adopt or amend any existing or new standard at any level
37 of operating efficiency, if the Governor has declared an energy
38 emergency as described in Section 8558 of the Government Code.

1 (5) Notwithstanding paragraph (4), the commission may adopt
2 standards pursuant to Commission Order No. 84-0111-1, on or
3 before June 30, 1985.

4 (d) Recommend minimum standards of efficiency for the
5 operation of any new facility at a particular site that are technically
6 and economically feasible. No site and related facility shall be
7 certified pursuant to Chapter 6 (commencing with Section 25500),
8 unless the applicant certifies that standards recommended by the
9 commission have been considered, which certification shall include
10 a statement specifying the extent to which conformance with the
11 recommended standards will be achieved.

12 Whenever this section and Chapter 11.5 (commencing with
13 Section 19878) of Part 3 of Division 13 of the Health and Safety
14 Code are in conflict, the commission shall be governed by that
15 chapter of the Health and Safety Code to the extent of the conflict.

16 (e) The commission shall do all of the following:

17 (1) Not later than January 1, 2004, amend any regulations in
18 effect on January 1, 2003, pertaining to the energy efficiency
19 standards for residential clothes washers to require that residential
20 clothes washers manufactured on or after January 1, 2007, be at
21 least as water efficient as commercial clothes washers.

22 (2) Not later than April 1, 2004, petition the federal Department
23 of Energy for an exemption from any relevant federal regulations
24 governing energy efficiency standards that are applicable to
25 residential clothes washers.

26 (3) Not later than January 1, 2005, report to the Legislature on
27 its progress with respect to the requirements of paragraphs (1) and
28 (2).