

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, Charles Calderon. Energy: appliance efficiency.

Existing law requires 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. Existing law requires these standards to become effective no sooner than one year after the date of adoption or revision.

Existing law provides that, within 5 years after the adoption of an appliance standard, a change in an appliance standard shall not become effective unless the commission adopts other cost-effective measures for that appliance.

This bill would additionally provide that a change in the appliance standard may become effective if the commission finds that the appliance standard is no longer needed. The bill would require the commission, in establishing the appliance standards, to rely on the most

current data possible and, whenever feasible, rely on data no older than one year prior to the commencement of the formal rulemaking process.

This bill would provide that the battery charger labeling requirements become effective on July 1, 2013, if the United States Department of Energy labeling rule for battery chargers (federal rule) is not in effect on that date and remain in effect until the federal rule becomes effective.

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

21 (2) Prior to adopting a water efficiency standard for residential
22 buildings, the Department of Housing and Community
23 Development and the commission shall issue a joint finding
24 whether the standard (A) is equivalent or superior in performance,
25 safety, and for the protection of life, health, and general welfare
26 to standards in Title 24 of the California Code of Regulations and
27 (B) does not unreasonably or unnecessarily impact the ability of
28 Californians to purchase or rent affordable housing, as determined
29 by taking account of the overall benefit derived from water

1 efficiency standards. Nothing in this subdivision in any way
2 reduces the authority of the Department of Housing and
3 Community Development to adopt standards and regulations
4 pursuant to Part 1.5 (commencing with Section 17910) of Division
5 13 of the Health and Safety Code.

6 (3) Water efficiency standards and water conservation design
7 standards adopted pursuant to this subdivision and subdivision (b)
8 shall be consistent with the legislative findings of this division to
9 ensure and maintain a reliable supply of electrical energy and be
10 equivalent to or superior to the performance, safety, and protection
11 of life, health, and general welfare standards contained in Title 24
12 of the California Code of Regulations. The commission shall
13 consult with the members of the coordinating council as established
14 in Section 18926 of the Health and Safety Code in the development
15 of these standards.

16 (b) (1) Prescribe, by regulation, energy and water conservation
17 design standards for new residential and new nonresidential
18 buildings. The standards shall be performance standards and shall
19 be promulgated in terms of energy consumption per gross square
20 foot of floorspace, but may also include devices, systems, and
21 techniques required to conserve energy and water. The commission
22 shall periodically review the standards and adopt any revision that,
23 in its judgment, it deems necessary. A building that satisfies the
24 standards prescribed pursuant to this subdivision need not comply
25 with the standards prescribed pursuant to subdivision (a). Water
26 conservation design standards adopted pursuant to this subdivision
27 shall be demonstrated by the commission to be necessary to save
28 energy. Prior to adopting a water conservation design standard for
29 residential buildings, the Department of Housing and Community
30 Development and the commission shall issue a joint finding
31 whether the standard (A) is equivalent or superior in performance,
32 safety, and for the protection of life, health, and general welfare
33 to standards in the California Building Standards Code and (B)
34 does not unreasonably or unnecessarily impact the ability of
35 Californians to purchase or rent affordable housing, as determined
36 by taking account of the overall benefit derived from the water
37 conservation design standards. Nothing in this subdivision in any
38 way reduces the authority of the Department of Housing and
39 Community Development to adopt standards and regulations

1 pursuant to Part 1.5 (commencing with Section 17910) of Division
2 13 of the Health and Safety Code.

3 (2) In order to increase public participation and improve the
4 efficacy of the standards adopted pursuant to subdivisions (a) and
5 (b), the commission shall, prior to publication of the notice of
6 proposed action required by Section 18935 of the Health and Safety
7 Code, involve parties who would be subject to the proposed
8 regulations in public meetings regarding the proposed regulations.
9 All potential affected parties shall be provided advance notice of
10 these meetings and given an opportunity to provide written or oral
11 comments. During these public meetings, the commission shall
12 receive and take into consideration input from all parties
13 concerning the parties' design recommendations, cost
14 considerations, and other factors that would affect consumers and
15 California businesses of the proposed standard. The commission
16 shall take into consideration prior to the start of the notice of
17 proposed action any input provided during these public meetings.

18 (3) The standards adopted or revised pursuant to subdivisions
19 (a) and (b) shall be cost-effective when taken in their entirety and
20 when amortized over the economic life of the structure compared
21 with historic practice. When determining cost-effectiveness, the
22 commission shall consider the value of the water or energy saved,
23 impact on product efficacy for the consumer, and the life-cycle
24 cost of complying with the standard. The commission shall consider
25 other relevant factors, as required by Sections 18930 and 18935
26 of the Health and Safety Code, including, but not limited to, the
27 impact on housing costs, the total statewide costs and benefits of
28 the standard over its lifetime, economic impact on California
29 businesses, and alternative approaches and their associated costs.

30 (c) (1) (A) Prescribe, by regulation, standards for minimum
31 levels of operating efficiency, based on a reasonable use pattern;
32 ~~and may.~~

33 (B) *The commission may* prescribe other cost-effective measures,
34 including incentive programs, fleet averaging, energy and water
35 consumption labeling not preempted by federal labeling law, and
36 consumer education programs, to promote the use of energy and
37 water efficient appliances whose use, as determined by the
38 commission, requires a significant amount of energy or water on
39 a statewide basis. ~~The~~

1 (C) The minimum levels of operating efficiency shall be based
2 on feasible and attainable efficiencies or feasible improved
3 efficiencies that will reduce the energy or water consumption
4 growth rates. ~~The~~

5 (D) The standards shall become effective no sooner than one
6 year after the date of adoption or revision. No new appliance
7 manufactured on or after the effective date of the standards may
8 be sold or offered for sale in the state, unless it is certified by the
9 manufacturer thereof to be in compliance with the standards. The
10 standards shall be drawn so that they do not result in any added
11 total costs for consumers over the designed life of the appliances
12 concerned.

13 ~~In~~

14 (E) In order to increase public participation and improve the
15 efficacy of the standards adopted pursuant to this subdivision, the
16 commission shall, prior to publication of the notice of proposed
17 action required by Section 18935 of the Health and Safety Code,
18 involve parties who would be subject to the proposed regulations
19 in public meetings regarding the proposed regulations. All potential
20 affected parties shall be provided advance notice of these meetings
21 and given an opportunity to provide written or oral comments.
22 During these public meetings, the commission shall receive and
23 take into consideration input from all parties concerning the parties'
24 design recommendations, cost considerations, and other factors
25 that would affect consumers and California businesses of the
26 proposed standard. The commission shall take into consideration
27 prior to the start of the notice of proposed action any input provided
28 during these public meetings.

29 ~~The~~

30 (F) The standards adopted or revised pursuant to this subdivision
31 shall not result in any added total costs for consumers over the
32 designed life of the appliances concerned. When determining
33 cost-effectiveness, the commission shall consider the value of the
34 water or energy saved, impact on product efficacy for the
35 consumer, and the life-cycle cost to the consumer of complying
36 with the standard. The commission shall consider other relevant
37 factors, as required by Sections 11346.5 and 11357 of the
38 Government Code, including, but not limited to, the impact on
39 housing costs, the total statewide costs and benefits of the standard

1 over its lifetime, economic impact on California businesses, and
2 alternative approaches and their associated costs.

3 (2) No new appliance, except for any plumbing fitting, regulated
4 under paragraph (1), that is manufactured on or after July 1, 1984,
5 may be sold, or offered for sale, in the state, unless the date of the
6 manufacture is permanently displayed in an accessible place on
7 that appliance.

8 (3) During the period of five years after the commission has
9 adopted a standard for a particular appliance under paragraph (1),
10 no increase or decrease in the minimum level of operating
11 efficiency required by the standard for that appliance shall become
12 effective, unless the commission adopts other cost-effective
13 measures for that appliance or finds that the regulation is no longer
14 needed.

15 (4) Neither the commission nor any other state agency shall
16 take any action to decrease any standard adopted under this
17 subdivision on or before June 30, 1985, prescribing minimum
18 levels of operating efficiency or other energy conservation
19 measures for any appliance, unless the commission finds by a
20 four-fifths vote that a decrease is of benefit to ratepayers, and that
21 there is significant evidence of changed circumstances. Before
22 January 1, 1986, the commission shall not take any action to
23 increase a standard prescribing minimum levels of operating
24 efficiency for any appliance or adopt a new standard under
25 paragraph (1). Before January 1, 1986, any appliance manufacturer
26 doing business in this state shall provide directly, or through an
27 appropriate trade or industry association, information, as specified
28 by the commission after consultation with manufacturers doing
29 business in the state and appropriate trade or industry associations,
30 on sales of appliances so that the commission may study the effects
31 of regulations on those sales. These informational requirements
32 shall remain in effect until the information is received. The trade
33 or industry association may submit sales information in an
34 aggregated form in a manner that allows the commission to carry
35 out the purposes of the study. The commission shall treat any sales
36 information of an individual manufacturer as confidential and that
37 information shall not be a public record. *For confidential or*
38 *proprietary business information that would not be otherwise*
39 *available to the commission, the commission and the manufacturer*
40 *shall agree on the form and substance of the submission.* The

1 commission shall not request any information that cannot be
2 reasonably produced in the exercise of due diligence by the
3 manufacturer. The commission shall rely on the most current data
4 possible and, ~~wherever~~ *whenever* feasible, rely on data no older
5 than one year prior to the commencement of the formal rulemaking
6 process. At least one year prior to the adoption or amendment of
7 a standard for an appliance, the commission shall notify the
8 Legislature of its intent, and the justification to adopt or amend a
9 standard for the appliance. Notwithstanding paragraph (3) and this
10 paragraph, the commission may do any of the following:

11 (A) Increase the minimum level of operating efficiency in an
12 existing standard up to the level of the National Voluntary
13 Consensus Standards 90, adopted by the American Society of
14 Heating, Refrigeration, and ~~Air-Conditioning~~ *Air-Conditioning*
15 Engineers or, for appliances not covered by that standard, up to
16 the level established in a similar nationwide consensus standard.

17 (B) Change the measure or rating of efficiency of any standard,
18 if the minimum level of operating efficiency remains substantially
19 the same.

20 (C) Adjust the minimum level of operating efficiency in an
21 existing standard in order to reflect changes in test procedures that
22 the standards require manufacturers to use in certifying compliance,
23 if the minimum level of operating efficiency remains substantially
24 the same.

25 (D) Readopt a standard preempted, enjoined, or otherwise found
26 legally defective by an administrative agency or a lower court, if
27 final legal action determines that the standard is valid and if the
28 standard that is readopted is not more stringent than the standard
29 that was found to be defective or preempted.

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

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

36 (d) Recommend minimum standards of efficiency for the
37 operation of any new facility at a particular site that are technically
38 and economically feasible. No site and related facility shall be
39 certified pursuant to Chapter 6 (commencing with Section 25500),
40 unless the applicant certifies that standards recommended by the

1 commission have been considered, which certification shall include
2 a statement specifying the extent to which conformance with the
3 recommended standards will be achieved.

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

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

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

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

18 (3) Not later than January 1, 2005, report to the Legislature on
19 its progress with respect to the requirements of paragraphs (1) and
20 (2).

21 *(f) (1) Notwithstanding any other law, the battery charger*
22 *product labeling regulations adopted by the commission for*
23 *consumer products with battery chargers shall not take effect and*
24 *the commission shall not enforce those regulations before July 1,*
25 *2013.*

26 *(2) On or after July 1, 2013, the battery charger product*
27 *labeling regulations shall be effective if a United States Department*
28 *of Energy labeling rule for battery chargers is not effective on or*
29 *before July 1, 2013, and shall remain in effect until a United States*
30 *Department of Energy final labeling rule is effective for battery*
31 *charger products. Commission labeling regulations for battery*
32 *charger products not regulated by the United States Department*
33 *of Energy shall remain in effect notwithstanding the United States*
34 *Department of Energy regulation.*