

AMENDED IN SENATE AUGUST 6, 2012

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~~ *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 do not become effective on July 1, 2013, and would prohibit the enforcement of those requirements if, no later than January 31, 2013, 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~~ issues a decision adopting a federal labeling requirement for battery chargers that becomes effective no later than July 1, 2013. The bill would provide that the battery charger labeling requirements adopted by the commission that become effective would remain in effect only until the United States Department of Energy adopts a final labeling rule for battery chargers that 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.

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

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

(b) (1) Prescribe, by regulation, energy and water conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy and water. The commission shall periodically review the standards and adopt any revision that, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a). Water conservation design standards adopted pursuant to this subdivision shall be demonstrated by the commission to be necessary to save energy. Prior to adopting a water conservation design standard for residential buildings, the Department of Housing and Community Development and the commission shall issue a joint finding whether the standard (A) is equivalent or superior in performance,

1 safety, and for the protection of life, health, and general welfare
2 to standards in the California Building Standards Code and (B)
3 does not unreasonably or unnecessarily impact the ability of
4 Californians to purchase or rent affordable housing, as determined
5 by taking account of the overall benefit derived from the water
6 conservation design standards. Nothing in this subdivision in any
7 way reduces the authority of the Department of Housing and
8 Community Development to adopt standards and regulations
9 pursuant to Part 1.5 (commencing with Section 17910) of Division
10 13 of the Health and Safety Code.

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

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

38 (c) (1) (A) Prescribe, by regulation, standards for minimum
39 levels of operating efficiency, based on a reasonable use pattern.

1 (B) The commission may prescribe other cost-effective
2 measures, including incentive programs, fleet averaging, energy
3 and water consumption labeling not preempted by federal labeling
4 law, and consumer education programs, to promote the use of
5 energy and water efficient appliances whose use, as determined
6 by the commission, requires a significant amount of energy or
7 water on a statewide basis.

8 (C) The minimum levels of operating efficiency shall be based
9 on feasible and attainable efficiencies or feasible improved
10 efficiencies that will reduce the energy or water consumption
11 growth rates.

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

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

35 (F) The standards adopted or revised pursuant to this subdivision
36 shall not result in any added total costs for consumers over the
37 designed life of the appliances concerned. When determining
38 cost-effectiveness, the commission shall consider the value of the
39 water or energy saved, impact on product efficacy for the
40 consumer, and the life-cycle cost to the consumer of complying

1 with the standard. The commission shall consider other relevant
2 factors, as required by Sections 11346.5 and 11357 of the
3 Government Code, including, but not limited to, the impact on
4 housing costs, the total statewide costs and benefits of the standard
5 over its lifetime, economic impact on California businesses, and
6 alternative approaches and their associated costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) (1) Notwithstanding any other law, the battery charger product labeling regulations adopted by the commission for consumer products with battery chargers shall not take effect and the commission shall not enforce those regulations ~~before July 1, 2013~~ *if, no later than January 31, 2013, the United States Department of Energy has issued a decision adopting a federal labeling requirement for battery charger products that takes effect no later than July 1, 2013.*

(2) ~~On or after July 1, 2013, the~~ *If* battery charger product labeling regulations ~~shall be effective if a United States Department of Energy labeling rule for battery chargers is not effective on or before July 1, 2013, and adopted by the commission become effective, those regulations shall remain in effect only until a United States Department of Energy final labeling rule is effective for battery charger products. Commission labeling~~ *Labeling* regulations ~~adopted by the commission~~ for battery charger products not regulated by the United States Department of Energy shall remain

- 1 in effect notwithstanding the United States Department of Energy
- 2 regulation.

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