

AMENDED IN SENATE MAY 1, 2007

SENATE BILL

No. 140

Introduced by Senator Kehoe

January 25, 2007

An act to add Section 13455 to the Business and Professions Code, and to add Section 43836 to the Health and Safety Code, relating to ~~vehicular air pollution~~ *fuels*.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Kehoe. ~~Vehicular air pollution.~~ *Fuels*: renewable diesel fuel.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law permits, until January 1, 2008, any federal, state, or local agency to utilize a biodiesel blend fuel consisting of not more than 20% biodiesel in any retrofitted vehicular or off-road diesel engine certified by the state board, whether or not biodiesel is expressly identified as a fuel for use with the retrofit system, as provided. Existing law requires the state board to not adopt any regulation that establishes a specification for motor vehicle fuel unless that regulation, and a multimedia evaluation, as defined, conducted by affected agencies and coordinated by the state board, are reviewed by the California Environmental Policy Council. Existing law generally provides that a violation of any rule, regulation, or law relating to air pollution is a crime.

This bill would require; all diesel fuel sold or offered for sale in the state for use in internal combustion engines to contain at least 2%

renewable diesel fuel, as defined, no later than one year after a specified ~~finding~~ *determination* is made by the state board, and, no later than 2 years after the implementation of the 2% standard, would require all diesel fuel sold or offered for sale in the state for use in internal combustion engines to contain at least 5% renewable diesel fuel. The bill would require these provisions to be enforced by the Department of Food and Agriculture, as specified. The bill would permit the state board to adopt regulations to grant exemptions to those requirements under specified circumstances. The bill would also permit the State Energy Resources Conservation and Development Commission to temporarily suspend those requirements if fuel supplies are shown to be inadequate, as provided.

Because a violation of the regulation requiring all diesel fuel sold or offered for sale in the state to contain specified percentages of renewable diesel fuel by a certain date would constitute a crime, this bill would impose a state-mandated local program.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The United States Energy Information Administration ranks
- 4 California as second in petroleum consumption among the 50
- 5 states.
- 6 (b) As the nation's leading consumer of petroleum for
- 7 transportation, California's increasing demand for petroleum and
- 8 rapidly growing consumption of gasoline and diesel fuel pose
- 9 substantial risks to the state's economy, security, and environment.
- 10 (c) Growing instability in global oil supplies and rapidly
- 11 increasing demand in China, India, and throughout the world are
- 12 likely to increase California's vulnerability to oil supply disruptions
- 13 and sudden price increases.

1 (d) California's current and projected levels of gasoline and
2 diesel demand far exceeds California's refinery capacity, which
3 results in limited competition and increased vulnerability to market
4 disruptions.

5 (e) Cost-effective alternative fuels and advanced technologies
6 are available today, such as biofuels and hybrid electric vehicles,
7 that can lessen economic instability caused by high fuel prices and
8 price spikes, while reducing risks to public health and
9 environmental degradation caused by increased consumption of
10 petroleum fuel.

11 (f) Renewable diesel fuels, including biodiesel, are petroleum
12 diesel substitutes. Biodiesel is produced from domestic renewable
13 sources and is nontoxic, biodegradable, and cleaner burning than
14 petroleum diesel.

15 (g) Biodiesel contains no sulfur or aromatics associated with
16 air pollution, reduces toxic emissions, and reduces emissions of
17 greenhouse gases.

18 (h) It is in the public interest to establish a market for alternative
19 fuels. By requiring a growing percentage of our fuel supply to be
20 renewable diesel fuel that meets appropriate fuel quality standards,
21 California will be able to reduce its dependence on imports of
22 foreign oil, improve the health and quality of life for Californians,
23 and stimulate the creation of a new industry in California that
24 benefits our farmers and rural communities.

25 (i) In 2006, California fleets used over 11 million gallons of
26 biodiesel, and according to the California Energy Commission and
27 the California Environmental Protection Agency, biodiesel blends
28 as low as B2 (98 percent diesel and 2 percent biodiesel) can play
29 an important role in the introduction of cleaner conventional diesel
30 fuels and advanced diesel engines, reducing diesel emissions, and
31 reducing California's dependence on petroleum.

32 (j) Today almost all vehicle and engine manufacturers accept
33 using blends up to B5 (95 percent diesel and 5 percent biodiesel)
34 with existing diesel engines, provided that the fuel complies with
35 American Society for Testing and Materials (ASTM) specifications.

36 (k) With agricultural surpluses, commodity prices have reached
37 record lows. Implementing a California renewable diesel standard
38 would create new markets for California farm products. Economic
39 conditions are now favorable to utilize domestic surpluses of
40 biobased oil to enhance the state's energy security.

SEC. 2. Section 13455 is added to the Business and Professions Code, to read:

13455. (a) The department shall enforce the diesel fuel specifications of Section 43836 of the Health and Safety Code, that require diesel fuel sold or offered for sale in the state for use in internal combustion engines to contain specified percentages of renewable diesel fuel.

(b) In fulfilling its requirements under subdivision (a), the department shall have all the same powers that it has in enforcing the requirements of this division.

(c) By June 1, 2008, the department shall submit a feasibility study to the Legislature that assesses the potential of California to produce feedstocks of renewable diesel fuel, as defined in subdivision (e) of Section 43836 of the Health and Safety Code.

SEC. 3. Section 43836 is added to the Health and Safety Code, to read:

43836. (a) (1) The state board shall amend California diesel fuel regulations to include mandatory statewide blends of renewable diesel fuel as described in paragraphs (2) and (3) after completing the multimedia evaluation required by Section 43830.8 and after making the ~~finding~~ *determination* required by subdivision (b).

(2) Commencing no later than one year after the publication of the ~~finding~~ *determination* required by subdivision (b), all diesel fuel sold or offered for sale in the state for use in internal combustion engines, whether in a mobile or stationary source, shall contain at least 2 percent renewable diesel fuel.

(3) Commencing no later than two years after the implementation of paragraph (2), all diesel fuel sold or offered for sale in the state for use in internal combustion engines, whether in a mobile or stationary source, shall contain at least 5 percent renewable diesel fuel.

(b) ~~Prior to the adoption of a resolution to require~~ *requiring* mandatory statewide blends of at least 2 percent or 5 percent renewable diesel fuel, the state board shall determine that requiring specified renewable fuel blends as described in paragraphs (2) and (3) of subdivision (a) would maintain or improve upon the emissions reductions and air quality benefits achieved by the diesel fuel regulations contained in Article 2 (commencing with Section 2280) of Chapter 5 of Title 13 of the California Code of

1 Regulations, including emissions reductions for all pollutants and
2 precursors identified in the State Implementation Plan for ozone,
3 and emissions of potency weighted toxics compounds and
4 particulate matter.

5 (c) The state board may adopt regulations to grant exemptions
6 to the requirements of paragraphs (2) and (3) of subdivision (a) if
7 it finds either of the following:

8 (1) That engine performance, engine emissions, fuel systems,
9 or emission control equipment would be adversely affected by the
10 standards set forth in paragraphs (2) and (3) of subdivision (a).

11 (2) That the implementation of paragraphs (2) and (3) of
12 subdivision (a) without the exemptions would adversely affect the
13 goals for alternative fuels established pursuant to Article 6.5
14 (commencing with Section 43865).

15 (d) The State Energy Resources Conservation and Development
16 Commission may temporarily suspend the requirements of
17 paragraphs (2) and (3) of subdivision (a) if renewable diesel fuel
18 supplies are shown to be inadequate, as determined by the
19 commission.

20 (e) For the purposes of this section, “renewable diesel fuel”
21 means a diesel fuel that is either of the following:

22 (1) Biodiesel, which is comprised of mono-alkyl esters of long
23 chain fatty acids derived from renewable resources including, but
24 not limited to, vegetable oils, waste grease, or animal fats, meeting
25 the requirements of the American Society for Testing and Materials
26 (ASTM) D-6751.

27 (2) Any other diesel fuel produced from eligible renewable
28 sources and meeting either the requirements of ASTM D-975 or
29 a state-approved standard promulgated by an American National
30 Standards Institute (ANSI) accredited standards development
31 organization, including, but not limited to, the Society of
32 Automotive Engineers (SAE) and ASTM.

33 (f) This section shall be known, and may be cited, as the
34 California Renewable Diesel Standards Act.

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

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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