

AMENDED IN ASSEMBLY APRIL 11, 2007

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 255

**Introduced by Assembly Members De Leon, DeSaulnier, and
Huffman**

February 5, 2007

An act to amend Section 44060 of, to add Article 8 (commencing with Section 43900) to Chapter 4 of Part 5 of Division 26 of, and to repeal Section 44091.1 of, the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 255, as amended, De Leon. Air pollution: Clean Air and Energy Independence Fund: smog abatement fee.

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. The State Air Resources Board is the state agency with primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts have primary responsibility for the control of air pollution from all sources other than vehicular sources.

This bill would create the Clean Air and Energy Independence Fund, and would continuously appropriate moneys in the fund to the state board to be used towards specified purposes, including incentives for ~~alternative fuel and alternative fuel purchasers of vehicles powered by~~ *clean alternative fuels or other efficient technologies*. The bill would require the state board, in consultation with the State Energy Resources

Conservation and Development Commission, to submit an annual report to the Legislature on expenditures from the Clean Air and Energy Independence Fund.

(2) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of all motor vehicles, except as specified, upon registration, biennially, upon transfer of ownership, and in certain other circumstances.

Existing law subjects any motor vehicle exempted from specified smog check requirements that is 4 or less model-years old to a smog abatement fee of \$12 and authorizes the department to impose that fee on motor vehicles that are 5 or 6 model-years old, if the department expands the exemption from the smog check requirements to include those motor vehicles. The revenues from \$6 of the fee are deposited in the Air Pollution Control Fund, and those moneys are available, upon appropriation, to fund the Carl Moyer Air Quality Standards Attainment Program, to the extent the state board or a participating district determines the moneys are expended to mitigate or remediate the harm caused by the type of motor vehicle on which the fee is imposed. Except as specified, of the revenue generated by the remaining \$6 of the fee, the revenue from \$4 of the fee is required to be deposited in the High Polluter Repair or Removal Account, and the revenue from \$2 of the fee is required to be deposited in the Vehicle Inspection and Repair Fund.

This bill would increase the smog abatement fee from \$12 to \$16, and would allocate the \$4 increase to the Clean Air and Energy Independence Fund.

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

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) Air pollution causes cancer, asthma, bronchitis, and many
- 4 other illnesses.
- 5 (b) Children are particularly vulnerable to smog and are
- 6 disproportionately affected by air pollution. In Los Angeles County
- 7 alone, asthma is responsible for over 12,000 hospitalizations every
- 8 year, with most of these patients being children. In many areas of

the state asthma has become the most common reason for elementary school children to miss school due to illness. Since 1980, asthma prevalence among children in California has increased 75 percent. When children have trouble getting sufficient oxygen, they are less able to concentrate and learn in the classroom. Asthma is a leading cause of absenteeism by elementary school pupils.

(c) Studies demonstrate that living near high-traffic roadways can cause permanent lung damage and a much greater risk of asthma, disproportionately affecting children. Studies also demonstrate that low-income communities are disproportionately located adjacent to high-traffic roadways, including freight transport hubs. As a result, children living in low-income neighborhoods are at the greatest risk of these illnesses.

(d) Air pollution causes loss in worker productivity and hospital visits costing the state and the economy billions of dollars every year.

(e) Dependence on foreign oil for our energy needs puts the state's economy at undue risk for disruption and threatens the long-term strength of the economy.

~~(f) Automobiles emit~~ *The combustion of fossil fuels emits* greenhouse gas pollutants that are threatening the global environment and posing catastrophic damage to the state.

(g) It is the intent of the Legislature that the Clean Air and Energy Independence Fund as created by this act will negate these impacts.

SEC. 2. Article 8 (commencing with Section 43900) is added to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 8. Clean Air and Energy Independence Fund

43900. The Clean Air and Energy Independence Fund is hereby created to be administered by the state board. All moneys in the fund are continuously appropriated, without regard to fiscal years, to the state board and may be used as specified in Section 43901.

43901. (a) The Clean Air and Energy Independence Fund may be used for all of the following purposes:

~~(1) Market-based incentives for the purchase of high efficiency, high mileage, clean alternative fuel for light, medium, and heavy~~

~~duty vehicles, both individual and public fleet, including, but not limited to, buydowns, rebates, credits, and other incentives.~~

(1) Market-based incentives, such as buy downs, rebates, credits, or other incentives, for purchasers of high efficiency, high mileage, light-, medium-, and heavy- duty vehicles, powered by clean alternative fuels or other efficient technologies that reduce air pollution and dependence on fossil fuels.

(2) Production incentives, including loans, loan guarantees, and credits, for clean alternative fuel production within the state.

(3) Market-based incentives for the construction of publicly accessible clean alternative fueling stations.

(4) Grants for research and development of clean and zero emission fuels and vehicle technology to assist in making these technologies more affordable.

(b) The Clean Air and Energy Independence Fund shall not be used to support the development of fuels derived from petroleum, petroleum coke, or coal.

43903. On March 1, 2009, and annually thereafter, the state board shall, in consultation with the State Energy Resources Conservation and Development Commission, submit a report to the Legislature on expenditures from the Clean Air and Energy Independence Fund, including an analysis of how these expenditures are currently reducing emissions, and a forecast of the program's impact on emissions reductions for the following five years.

SEC. 3. Section 44060 of the Health and Safety Code is amended to read:

44060. (a) The department shall prescribe the form of the certificate of compliance or noncompliance, repair cost waivers, and economic hardship extensions.

(b) The certificates, repair cost waivers, and economic hardship extensions shall be in the form of an electronic entry filed with the department, the Department of Motor Vehicles, and any other person designated by the department. The department shall ensure that the motor vehicle owner or operator is provided with a written report, signed by the licensed technician who performed the inspection, of any test performed by a smog check station, including a pass or fail indication, and written confirmation of the issuance of the certificate.

1 (c) (1) The department shall charge a fee to a smog check
2 station, including a test-only station, and a station providing referee
3 functions, for a motor vehicle inspected at that station that meets
4 the requirements of this chapter and is issued a certificate of
5 compliance, a certificate of noncompliance, repair cost waiver, or
6 economic hardship extension.

7 (2) The fee charged pursuant to paragraph (1) shall be calculated
8 to recover the costs of the department and any other state agency
9 directly involved in the implementation, administration, or
10 enforcement of the motor vehicle inspection and maintenance
11 program, and shall not exceed the amount reasonably necessary
12 to fund the operation of the program, including all responsibilities,
13 requirements, and obligations imposed upon the department or
14 any of those state agencies by this chapter, that are not otherwise
15 recoverable by fees received pursuant to Section 44034.

16 (3) Except for adjustments to reflect changes in the Consumer
17 Price Index, as published by the United States Bureau of Labor
18 Statistics, the fee for each certificate, waiver, or extension shall
19 not exceed seven dollars (\$7).

20 (4) Fees collected by the department pursuant to this subdivision
21 shall be deposited in the Vehicle Inspection and Repair Fund. It
22 is the intent of the Legislature that a prudent surplus be maintained
23 in the Vehicle Inspection and Repair Fund.

24 (d) (1) Motor vehicles exempted under paragraph (4) of
25 subdivision (a) of Section 44011 shall be subject to an annual smog
26 abatement fee of sixteen dollars (\$16). The department may also,
27 by regulation, subject motor vehicles that are exempted under
28 paragraph (5) of subdivision (a) of Section 44011 to the sixteen
29 dollar (\$16) annual smog abatement fee. Payment of the annual
30 smog abatement fee shall be made to the Department of Motor
31 Vehicles at the time of registration of the motor vehicle.

32 (2) Fees collected pursuant to this subdivision shall be deposited
33 as follows:

34 (A) The revenues generated by six dollars (\$6) of the fee shall
35 be deposited in the Air Pollution Control Fund, and shall be
36 available for expenditure, upon appropriation by the Legislature,
37 to fund the Carl Moyer Memorial Air Quality Standards Attainment
38 Program (Chapter 9 (commencing with Section 44275)) to the
39 extent that the state board or a participating district determines the

1 moneys are expended to mitigate or remediate the harm caused by
2 the type of motor vehicle on which the fee is imposed.

3 (B) The revenues generated by four dollars (\$4) of the fee shall
4 be deposited in the Clean Air and Energy Independence Fund
5 created by Section 43900.

6 (C) (i) Except as provided in clause (ii), of the revenue
7 generated by the remaining six dollars (\$6) of the fee, four dollars
8 (\$4) shall be deposited in the High Polluter Repair or Removal
9 Account created by Section 44091, while the revenue generated
10 by the remaining two dollars (\$2) shall be deposited in the Vehicle
11 Inspection and Repair Fund.

12 (ii) All revenue generated by the remaining six dollars (\$6) of
13 the fee that is imposed at first registration of a motor vehicle and
14 that is exempted under paragraph (4) of subdivision (a) of Section
15 44011 shall be deposited in the High Polluter Repair or Removal
16 Account created by Section 44091.

17 (e) The sale or transfer of the certificate, waiver, or extension
18 by a licensed smog check station or test-only station to any other
19 licensed smog check station or to any other person, and the
20 purchase or acquisition of the certificate, waiver, or extension, by
21 any person, other than from the department, the department's
22 designee, or pursuant to a vehicle's inspection or repair conducted
23 pursuant to this chapter, is prohibited.

24 (f) Following implementation of the electronic entry certificate
25 under subdivision (b), the department may require the modification
26 of the analyzers and other equipment required at smog check
27 stations to prevent the entry of a certificate that has not been issued
28 or validated through prepayment of the fee authorized by
29 subdivision (c).

30 (g) The fee charged by licensed smog check stations to
31 consumers for a certificate, waiver, or extension shall be the same
32 amount that is charged by the department.

33 SEC. 4. Section 44091.1 of the Health and Safety Code is
34 repealed.