AMENDED IN ASSEMBLY APRIL 26, 2005

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL No. 679

Introduced by Assembly Member Calderon

February 17, 2005

An act to repeal and add Section 43700 of, and to add Section 43700.1 to, the Health and Safety Code, relating to emissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 679, as amended, Calderon. Air resources: Heavy-duty motor vehicles: diesel fuel.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources and generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law imposes emission standards on used motor vehicles, including heavy-duty diesel motor vehicles. Existing law authorizes the state board to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications that the state board has found to be necessary, cost effective, and technologically feasible. Existing law requires the state board to consult with significantly impacted entities and to make specified determinations before adopting or amending a standard or regulation relating to motor vehicle fuel specifications. Existing federal law requires the state to submit a state implementation plan for the control of air pollution that, among other things, lists reductions in emissions in the state. Existing

law makes legislative findings and declarations relating to reductions in diesel emissions from motor vehicles.

This bill would delete those findings and declarations and make new findings and declarations relating to the state's diesel fuel market and the necessity of a more competitively neutral and economically efficient method of reducing emissions in onroad trucking operations to replace California Air Resources Board (CARB) diesel.

The bill would also permit the state board, effective June 1, 2006, to only claim the amount of ~~quantifiable~~ *quantified* emissions reductions in its emissions inventory and state implementation plan for California-required diesel formulations that have been verified through a new, peer reviewed, scientific test program that measures differences in NOx and particulate ~~emission~~ *emissions* between CARB diesel and the United States Environmental Protection Agency's (EPA) 2006 ultralow sulfur highway diesel fuel. The bill would require the test program to meet specified standards, and would permit the state board, until the test program is completed*,* to claim only those emission reduction benefits in its emissions inventory and state implementation plan for requiring the use of CARB diesel in onroad diesel truck engines that are identical to those authorized by the EPA for a specific diesel program. The bill would prohibit, on or after June 1, 2006, state regulations relating to diesel fuel from requiring importers to have their diesel fuel tested in a laboratory for engine emission equivalency, unless certain content specifications are not met, or from creating a diesel pool in California whose actual aromatic content does not meet the prescribed aromatic content specifications of the fuel standard.

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 43700 of the Health and Safety Code is
2 repealed.
3 SEC. 2. Section 43700 is added to the Health and Safety
4 Code, to read:
5 43700. The Legislature finds and declares all of the
6 following:
7 (a) Emission benefits associated with the use of California Air
8 Resources Board (CARB) diesel fuel in onroad trucks are lower

than anticipated when the original requirement was adopted in 1993.

(b) The planned introduction of a United States Environmental Protection Agency (EPA) ultralow sulfur ~~diesel~~ *highway diesel fuel* in 2006, certified for use in all states, will produce a fuel with emission benefits closer to those of CARB diesel for vehicles older than model-year 2003.

(c) According to the United States Environmental Protection Agency, CARB diesel will likely provide even fewer NOx benefits in model-year 2003 and later truck engines that employ exhaust gas recirculation (EGR) to reduce NOx emissions.

(d) A tight market for CARB diesel exists because California refiners must operate their refineries at over 90 percent of capacity to meet demand while California's diesel regulations effectively bar diesel imports.

(e) Tight markets increase the likelihood of market disruptions and price spikes during peak product demand, refining or distribution outages, or product changes. California has experienced five CARB diesel price spikes where the tax-adjusted price differences between California and neighboring states have reached thirty-five cents ($.35) per gallon.

(f) California's tight CARB diesel fuel market has also created chronic price differences between itself and neighboring states justifying petroleum industry officials' claim that California is by far their most profitable market because demand and supply are tight and imports cannot come in.

(g) The higher cost of CARB diesel has put the California trucking industry at a competitive disadvantage versus its competitors, interstate trucking companies, who can serve California shippers at lower cost because their long-range vehicles allow them to purchase diesel in neighboring states and bypass the additional cost of CARB diesel.

(h) This competitive disadvantage has played a significant role in the decline of the California trucking industry, whose 1994 truck fleet registrations totaled almost 97,000, but by 2003 had fallen to only 44,000, while the number of interstate trucks, registered in other states but operating in California, more than doubled from 624,000 to 1,360,000.

(i) Higher CARB diesel costs have also caused a slowdown in California truckers' replacement of their older vehicles with modern, less polluting trucks because California fleet owners must absorb the higher CARB diesel costs to compete with interstate trucking operations.

(j) The competitive challenge to the California trucking industry will soon intensify when the United States border with Mexico is opened to truck traffic under the provisions of the North America Free Trade Agreement because Mexican trucks will be able to serve California shippers using substantially lower cost Mexican diesel and labor.

(k) A more competitively neutral and economically efficient method of reducing emissions in onroad trucking operations is needed to replace CARB diesel. This type of method would not discriminate against California's native fleet, would achieve the same emission reductions at a lower cost, and would expand the state's access to diesel supplies.

SEC. 3. Section 43700.1 is added to the Health and Safety Code, to read:

43700.1. (a) The Legislature hereby finds and declares that the United States Environmental Protection Agency (EPA) has ruled that, beginning June 1, 2006, refiners must begin producing an ultralow sulfur highway diesel fuel that meets a maximum sulfur standard of 15 parts per million (ppm).

(b) Effective June 1, 2006, and pursuant to Section 43013, the state board may only claim the amount of quantified emissions reductions in its emissions inventory and state implementation plan for California-required diesel formulations that have been verified through a new, peer reviewed, scientific test program that measures differences in NOx and particulate emissions between California Air Resources Board (CARB) diesel and EPA's 2006 ultralow sulfur highway diesel fuel. The test program shall meet the following standards:

(1) CARB diesel tested shall be a representative mixture of all CARB diesel fuels that have received CARB certification. An individual company's specific diesel fuel may not be used as a representative fuel.

(2) The EPA ultralow sulfur *highway* diesel fuel tested shall be a representative mixture of diesel fuel from the national pool that is available throughout the United States. An individual

company's specific diesel fuel may not be used as a representative fuel.

(3) Testing of EPA ultralow sulfur *highway* diesel fuel versus CARB diesel fuel shall be conducted using the EPA transient test cycle with in-use vehicles whose age and models make up a representative sample of diesel vehicles fueling in California.

(4) The assessment of emission benefits determined during the test program may not be based upon models developed using previous fuels and engines.

(c) On or after June 1, 2006, any state regulation relating to diesel fuel shall not contain a provision for compliance with a prescriptive standard that does either of the following:

(1) Requires importers to have their diesel fuel tested in a laboratory for engine emission equivalency in order to receive certification to import their diesel fuel unless the sulphur content, total aromatic hydrocarbon content, total polyaromatic hydrocarbon content and cetane number of the imported fuel are, respectively, more than 5 percent higher than the de facto sulphur content, 5 percent higher than the de facto total aromatic hydrocarbon content, 5 percent higher than the de facto total polyaromatic hydrocarbon content, or 5 percent lower than the de facto cetane number of the California diesel pool.

(2) Has the effect of creating a diesel pool in California whose actual aromatic content does not meet the prescribed aromatic content specifications of the fuel standard.

(d) Until the test program in subdivision (b) is completed, the state board may claim only emission reduction benefits in its emissions inventory and state implementation plan for requiring the use of CARB diesel in diesel engines that are identical to those authorized by the United States Environmental Protection Agency for the Texas Low Emission Diesel Program by testing CARB diesel.

(1) For highway engines and nonroad engines larger than 50 hp without exhaust gas recirculation, the CARB diesel NOx emission benefit shall be 6.2 percent.

(2) For highway engines and nonroad engines larger than 50 hp with exhaust gas recirculation, the CARB diesel NOx emission benefit shall be 4.8 percent.

~~43700. The Legislature finds and declares all of the following:~~

~~(a) Previous to the 2006 federal fuel standards, significant reductions in diesel emissions from existing vehicles were achieved by California. The federal adoption of ultraclean diesel fuel standards restricting sulfur content to 15 parts per million (ppm) from 500 ppm enables the use of after treatment to significantly reduce pollution from criteria pollutants.~~

~~(b) Improvement in diesel engine technology due to technological breakthroughs in after treatment will reduce criteria pollutants in 2007 significantly, as compared to the 1994 emissions standards and fuel technologies that were achieved through fuel reformulations.~~

~~(c) After treatment particulate matter traps will reduce emissions by 90 percent from 0.1 grams per brake horsepower-hour (gr/bph-hr) to 0.01 gr/bhpr-hr. The federal standard for particulate matter limits for diesel engines begins in 2007.~~

~~(d) After treatment catalysts will reduce oxides of nitrogen by 96 percent from 5 gr/bph-hr to 0.2 gr/bph-hr. The federal standard for NOx begins in 2010. A transitional limit in 2007 will reduce emissions by 76 percent from 5 gr/bph-hr to 1.2 gr/bph-hr.~~

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