

Assembly Bill No. 2922

Passed the Assembly August 12, 2008

Chief Clerk of the Assembly

Passed the Senate August 7, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 43013 and 43016 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2922, DeSaulnier. Air pollution: penalties: fuel containers.

Existing law declares that emissions of air pollutants from motor vehicles are the primary cause of air pollution in many parts of California, and that the state has the responsibility to establish procedures for compliance with standards that control and eliminate those air pollutants. Existing law requires the State Air Resources Board to prescribe maximum air pollution emission standards to be applied in inspecting motor vehicles. Existing law also requires a person who violates any order, rule, or regulation of the state board adopted pursuant to this authority to pay a civil penalty for deposit into the Air Pollution Control Fund, not to exceed \$500 per vehicle.

This bill would set the maximum civil penalty for a violation of these provisions to be an amount not to exceed \$500 per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under these provisions.

Existing law requires the State Air Resources Board to adopt standards and regulations for motor vehicles and off-road or nonvehicle engine categories to control the emissions of air contaminants.

This bill would require the state board to adopt standards for portable fuel containers and spouts. The bill would provide that this provision is declaratory of existing law.

The people of the State of California do enact as follows:

SECTION 1. Section 43013 of the Health and Safety Code is amended to read:

43013. (a) The state board shall adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be

necessary, cost effective, and technologically feasible, to carry out the purposes of this division, unless preempted by federal law.

(b) The state board shall, consistent with subdivision (a), adopt standards and regulations for light-duty and heavy-duty motor vehicles, medium-duty motor vehicles, as determined and specified by the state board, portable fuel containers and spouts, and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

(c) Prior to adopting standards and regulations for farm equipment, the state board shall hold a public hearing and find and determine that the standards and regulations are necessary, cost effective, and technologically feasible. The state board shall also consider the technological effects of emission control standards on the cost, fuel consumption, and performance characteristics of mobile farm equipment.

(d) Notwithstanding subdivision (b), the state board shall not adopt any standard or regulation affecting locomotives until the final study required under Section 5 of Chapter 1326 of the Statutes of 1987 has been completed and submitted to the Governor and Legislature.

(e) Prior to adopting or amending any standard or regulation relating to motor vehicle fuel specifications pursuant to this section, the state board shall, after consultation with public or private entities that would be significantly impacted as described in paragraph (2) of subdivision (f), do both of the following:

(1) Determine the cost-effectiveness of the adoption or amendment of the standard or regulation. The cost-effectiveness shall be compared on an incremental basis with other mobile source control methods and options.

(2) Based on a preponderance of scientific and engineering data in the record, determine the technological feasibility of the adoption or amendment of the standard or regulation. That determination shall include, but is not limited to, the availability, effectiveness, reliability, and safety expected of the proposed technology in an application that is representative of the proposed use.

(f) Prior to adopting or amending any motor vehicle fuel specification pursuant to this section, the state board shall do both of the following:

(1) To the extent feasible, quantitatively document the significant impacts of the proposed standard or specification on affected segments of the state's economy. The economic analysis shall include, but is not limited to, the significant impacts of any change on motor vehicle fuel efficiency, the existing motor vehicle fuel distribution system, the competitive position of the affected segment relative to border states, and the cost to consumers.

(2) Consult with public or private entities that would be significantly impacted to identify those investigative or preventive actions that may be necessary to ensure consumer acceptance, product availability, acceptable performance, and equipment reliability. The significantly impacted parties shall include, but are not limited to, fuel manufacturers, fuel distributors, independent marketers, vehicle manufacturers, and fuel users.

(g) To the extent that there is any conflict between the information required to be prepared by the state board pursuant to subdivision (f) and information required to be prepared by the state board pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the requirements established under subdivision (f) shall prevail.

(h) It is the intent of the Legislature that the state board act as expeditiously as is feasible to reduce nitrogen oxide emissions from diesel vehicles, marine vessels, and other categories of vehicular and mobile sources which significantly contribute to air pollution problems.

SEC. 2. Section 43016 of the Health and Safety Code is amended to read:

43016. Any person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty not to exceed five hundred dollars (\$500) per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under this part, as these terms are defined in this division or state board regulations. Any penalty collected pursuant to this section shall be payable to the State Treasurer for deposit in the Air Pollution Control Fund.

SEC. 3. The amendment of Section 43013 of the Health and Safety Code made by this act does not constitute a change in, but is declaratory of, existing law.

Approved _____, 2008

Governor