

AMENDED IN SENATE MAY 10, 2016
AMENDED IN SENATE MARCH 29, 2016

SENATE BILL

No. 1161

Introduced by Senator Allen
(Coauthors: Senators Jackson and Leno)

February 18, 2016

An act to add Section 342.5 to the Code of Civil Procedure, relating to statutes of limitation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Allen. Statutes of limitation: California Climate Science Truth and Accountability Act of 2016.

Existing law requires an action alleging unfair competition, as defined, to be commenced within 4 years after the cause of action accrued.

This bill would, for actions brought by the Attorney General or ~~certain public prosecutors, a district attorney,~~ extend the time period for the commencement of ~~revive~~ an action for unfair competition with respect to scientific evidence regarding the existence, extent, or current or future impacts of ~~anthropogenic-induced~~ *anthropogenic-induced* climate change to within 30 years of an act giving rise to the cause of action. ~~The bill would revive actions that are time-barred~~ *is time barred* as of January 1, 2017, ~~as specified:~~ *and would authorize the action to be brought within 4 years of that date.*

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Climate Science Truth and Accountability Act of 2016.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) There is broad scientific consensus that anthropogenic global
6 warming is occurring and changing the world's climate patterns,
7 and that the primary cause is the emission of greenhouse gases
8 from the production and combustion of fossil fuels, such as coal,
9 oil, and natural gas.

10 (2) The United States Environmental Protection Agency
11 (USEPA) states that the buildup of atmospheric greenhouse gases
12 results in impacts that include the following:

13 (A) Changing temperature and precipitation patterns.

14 (B) Increases in ocean temperatures, sea level, and acidity.

15 (C) Melting of glaciers and sea ice.

16 (D) Changes in the frequency, intensity, and duration of extreme
17 weather events.

18 (E) Shifts in ecosystem characteristics, such as the length of the
19 growing season, timing of flower blooms, and migration of birds.

20 (F) Increased threats to human health.

21 (3) Impacts and damages from emissions of greenhouse gases
22 that cause climate change have been occurring for many years and
23 will be felt from decades to centuries after those emissions have
24 occurred. The USEPA states, “[b]ecause many of the major
25 greenhouse gases stay in the atmosphere for tens to hundreds of
26 years after being released, their warming effects on the climate
27 persist over a long time and can therefore affect both present and
28 future generations.”

29 (4) Reports and documentation published by researchers, public
30 interest nongovernmental organizations, and media in recent years
31 show that some fossil fuel companies were aware by the late 1970s
32 of scientific studies showing that carbon dioxide emissions from
33 fossil fuel combustion pose significant risk of harmful global
34 warming. The reports and documents also indicate that by the
35 mid-1980s fossil fuel company scientists were confirming in
36 internal documents intended for company management that
37 emissions from fossil ~~fuel~~ *fuels* were contributing significantly to

1 climate change, and companies were factoring global warming
2 into their own business investments.

3 (5) By 1988, the scientific evidence of climate change and the
4 significant risks it poses was widely communicated to the public
5 and was confirmed in congressional testimony by the National
6 Aeronautics and Space Administration (NASA). In that year, the
7 United Nations formed the Intergovernmental Panel on Climate
8 Change and the federal National Energy Policy Act of 1988 (House
9 Resolution 5380, 100th Congress) was introduced in Congress in
10 an effort to reduce the emissions of greenhouse gases. Because of
11 the highly public dissemination of information, congressional
12 discussion, and extensive media coverage of the robust scientific
13 evidence of the risks of continued burning of fossil fuel products,
14 major fossil fuel producers knew or should have known the risks
15 of continued burning of their products by 1988.

16 (6) More than half of all industrial carbon emissions have been
17 released since 1988, after the fossil fuel businesses knew of the
18 harm their products might cause, and have substantially increased
19 risks from climate change impacts to life, health, and property.

20 (7) Since at least 1989, published reports indicate that some of
21 these same entities have put sustained and significant efforts and
22 resources into creating public doubt on the science related to
23 climate change caused by anthropogenic sources.

24 (8) Misleading and inaccurate information disseminated by
25 organizations and representatives backed by fossil fuel companies,
26 along with advertising and publicity casting doubt on scientific
27 understanding of climate change, have led to confusion,
28 disagreement, and unnecessary controversy over the causes of
29 climate change and the effects of emissions of greenhouse gases.
30 This type of misinformation, widely and broadly disseminated in
31 the media, has long delayed public understanding of the risks of
32 continuing to emit high levels of greenhouse gases, confused and
33 polarized the public on the need to aggressively reduce emissions
34 to limit risks from climate change, and increased damage to public
35 safety, health, and property in California as well as nationally and
36 globally.

37 (9) Scientific studies indicate that climate change impacts are
38 occurring in California, causing significant damage to the economy,
39 environment, and public health. In a 2013 report on climate change
40 indicators, the Office of Environmental Health Hazard Assessment

1 found that California is already experiencing serious and
2 measurable impacts from atmospheric warming in the state's
3 weather, water systems, high wildfire frequency and intensity,
4 plant and animal species health, and human health and morbidity.

5 (10) Climate change has been tied by scientists to the severity
6 and intensity of the historically unprecedented and costly drought
7 that California has been experiencing since 2011 that has resulted
8 in communities running out of water, agricultural water cutbacks,
9 and unprecedented groundwater use that has caused subsidence
10 and a loss of storage capacity in the state's critical aquifers.

11 (11) An independent bipartisan report, published in 2014,
12 indicates that, by 2050, California will be suffering economic
13 losses of tens of billions of dollars due to climate change-related
14 impacts and that heat-related deaths could be twice the number of
15 current traffic-related deaths annually by *the* late 21st century.

16 (b) It is the intent of the Legislature to retroactively revive and
17 extend the statute of limitation for actions that may or may not be
18 barred by the applicable statute of limitation existing before
19 January 1, 2017, *and* that seek redress for unfair competition
20 practices committed by entities that have deceived, confused, or
21 misled the public on the risks of climate change or financially
22 supported activities that have deceived, confused, or misled the
23 public on those risks.

24 SEC. 3. Section 342.5 is added to the Code of Civil Procedure,
25 to read:

26 342.5. (a) (1) Notwithstanding Section 17208 of the Business
27 and Professions Code, an action ~~may be brought~~ pursuant to
28 Chapter 5 (commencing with Section 17200) of Part 2 of Division
29 7 of the Business and Professions Code against a corporation, firm,
30 partnership, joint stock company, association, or other organization
31 of persons that has directly or indirectly engaged in unfair
32 competition, as defined in Section 17200 of the Business and
33 ~~Profession~~ Professions Code, with respect to scientific evidence
34 regarding the existence, extent, or current or future impacts of
35 ~~anthropogenic-induced~~ *anthropogenic-induced* climate change ~~if~~
36 ~~the action is commenced within 30 years of an act giving rise to~~
37 ~~the cause of action.~~ *that would otherwise be barred as of January*
38 *1, 2017, solely because the statute of limitation has or had expired,*
39 *is revived and, in that case, the action may be commenced within*
40 *four years of January 1, 2017. Nothing in this subdivision shall*

1 *be construed to alter the applicable limitation period of an action*
2 *that is not time barred as of January 1, 2017.*

3 ~~(2) Actions that are otherwise barred as of January 1, 2017,~~
4 ~~solely because the statute of limitation specified in Section 17208~~
5 ~~of the Business and Professions Code has or had expired are~~
6 ~~revived to the extent that the actions are commenced within 30~~
7 ~~years of an act giving rise to the cause of action.~~

8 ~~(3)~~

9 ~~(2) Paragraph (2) (1) does not apply to an action against an~~
10 ~~entity who is a party to a prior action brought to enforce a cause~~
11 ~~of action pursuant to Chapter 5 (commencing with Section 17200)~~
12 ~~of Part 2 of Division 7 of the Business and Professions Code~~
13 ~~actions alleging claims described in paragraph (1) for which a~~
14 ~~final and nonappealable judgment has been rendered.~~

15 ~~(b) This section applies only to actions brought by the Attorney~~
16 ~~General, General or a district attorney, or a city attorney of a city~~
17 ~~having a population in excess of 750,000. attorney.~~