

**Introduced by Senator Mello**

February 22, 1996

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An act to add Sections 39043.5, 39613, and 42353.5 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1888, as introduced, Mello. Air pollution: visibility obscurants.

Existing law prohibits the discharge into the atmosphere of any air contaminant of a specified shade or opacity, requires a permit for various activities that may cause the issuance of air contaminants, and makes certain exceptions to those requirements.

This bill would additionally except from those provisions the use of visibility obscurant materials, as specified, in the training of military personnel or the testing of equipment by the United States Department of Defense on any military reservation, until January 1, 2000, except as specified, and thereafter, upon a specified review and finding by the State Air Resources Board. The bill would require the state board to carry out its duties under the bill upon executing an agreement with the federal government for reimbursement of costs incurred. The bill would authorize the hearing board of an air pollution control district or air quality management district to grant a variance for the use of obscurants if there is no health or environmental risk.

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 39043.5 is added to the Health  
2 and Safety Code, to read:

3 39043.5. "Obscurant" means any material released to  
4 the atmosphere during military exercises to obscure  
5 vision, including fog oil, white phosphorous, or other  
6 material which may be used to produce a smoke screen  
7 for impairing visibility into a localized area.

8 SEC. 2. Section 39613 is added to the Health and  
9 Safety Code, to read:

10 39613. (a) The use of any obscurant exclusively  
11 during the training of military personnel or exclusively in  
12 the testing of military equipment by the United States  
13 Department of Defense on any military reservation is  
14 exempt from Sections 41701 and 42301 until January 1,  
15 2000.

16 (b) The state board shall, not later than January 1,  
17 2000, determine whether to exempt from Sections 41701  
18 and 42301 the use on and after January 1, 2000, of  
19 obscurants as described in subdivision (a). The  
20 exemption shall apply on and after that date if both of the  
21 following occur:

22 (1) The state board reviews studies prepared by the  
23 United States Department of Defense, or its contractors,  
24 which assess the public health and environmental  
25 impacts of the use of the obscurant.

26 (2) Based upon the information contained in the  
27 studies, or based upon other relevant information, the  
28 state board makes a finding at a public hearing that the  
29 use of the obscurant poses no significant threat to public  
30 health or the environment, and that the use of the  
31 obscurant will not significantly contribute to the violation  
32 of any state or federal ambient air quality standard or  
33 toxic air contaminant standard in the district or districts  
34 within which the obscurant is to be used, or on a statewide  
35 basis.

36 (c) If, prior to January 1, 2000, the state board  
37 determines and finds at a public hearing that the use of  
38 obscurants as described in subdivision (a) should not be



1 exempt from Section 41701 or 42301 because the use of the  
2 obscurant poses a significant threat to public health or the  
3 environment, or will significantly contribute to violation  
4 of any state or federal ambient air quality standard in the  
5 district or districts in which the obscurant is to be used,  
6 or on a statewide basis, then after the date of that hearing,  
7 the exemption in subdivision (a) shall no longer apply.

8 (d) The state board shall carry out its duties under this  
9 section upon executing an agreement with the federal  
10 government to reimburse the state board for the costs  
11 incurred. No state moneys shall be used to carry out this  
12 section.

13 SEC. 3. Section 42353.5 is added to the Health and  
14 Safety Code, to read:

15 42353.5. Notwithstanding subdivisions (b) to (d),  
16 inclusive, of Section 39613, the hearing board may grant  
17 a variance for the use of any obscurant under the  
18 circumstances described in subdivision (a) of Section  
19 39613 if the district air pollution control officer  
20 determines that there are no health or environmental  
21 risks that would result from that use.

