

Date of Hearing: April 23, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2564 (Rodriguez) – As Amended April 16, 2018

SUBJECT: Civil and administrative penalties: glider vehicles

SUMMARY: Subjects any operator of a glider vehicle, as defined by the California Air Resources Board (ARB), to a minimum civil penalty of \$25,000 per violation of the state's vehicular air pollution control laws and regulations, and prohibits ARB from reducing the penalty for any reason.

EXISTING LAW:

- 1) Generally establishes processes for ARB to assess fines and penalties and specifies the deposit of fines and penalties for violations of vehicular air pollution control laws into the Air Pollution Control Fund (APCF) or the General Fund.
- 2) Establishes a process for ARB to assess administrative penalties, in lieu of civil penalties, for violation of specified vehicular air pollution control laws up to \$100,000 and establishes a threshold of \$100,000 for penalty assessments that qualify a person for mutual settlement agreements and requires the proceeds be deposited into the General Fund.
- 3) Requires ARB and the courts to consider specified conditions when assessing the amount of administrative or civil penalties for violations of vehicular air pollution control laws such as:
 - a) The extent of harm to public health, safety, and welfare caused by the violation;
 - b) The nature and persistence of the violation, including the magnitude of the excess emissions;
 - c) The compliance history of the defendant, including the frequency of past violations;
 - d) The preventive efforts taken by the defendant, including the record of maintenance and any program to ensure compliance;
 - e) The innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods;
 - f) The efforts to attain, or provide for, compliance; and,
 - g) The cooperation of the defendant during the course of the investigation and any action taken by the defendant, including the nature, extent, and time of response of any action taken to mitigate the violation.

FISCAL EFFECT: Unknown

COMMENTS: Under current law, the ARB and/or local air pollution control districts are authorized to impose civil or administrative penalties for a variety of violations of state air

pollution laws and regulations. Administrative penalties of up to \$100,000 may be assessed for certain violations. Fine and penalty revenues are generally deposited in the APCF (where they are available, upon appropriation of the Legislature, for environmental cleanup, abatement, or pollution prevention) or the General Fund.

ARB has articulated three main goals of its enforcement program:

- 1) To foster compliance;
- 2) To deter violations; and,
- 3) To create a level playing field for the community ARB regulates. ARB currently handles approximately 2,000 violations a year, and has a long history of obtaining compliance along with substantial penalties. In over 99% of its cases, ARB engages violators in a settlement process to reach resolutions, but where appropriate, ARB refers the matter to a prosecutor, usually the Attorney General, for civil litigation or criminal prosecution. ARB and the courts are required to consider several factors when determining the amount of an administrative or civil penalty – including the harm to the public, the compliance history of the defendant, preventative efforts made by the defendant, and other factors.

This bill creates a new civil penalty for individuals caught driving a glider vehicle that violates California's air pollution laws and regulations. A glider kit is a truck chassis with frame, front axle, interior and exterior cab, and brakes, but no engine or drivetrain. The term is analogous to an aircraft with no engine being a glider. A glider kit becomes a glider vehicle when an engine, transmission, and rear axle are added. The problem arises when engines are salvaged from earlier model year vehicles, remanufactured, and installed in the glider kit. Despite the fact that these glider vehicles look like brand new trucks, their earlier model year engines often do not comply with the state's air pollution standards.

ARB states that glider vehicles can emit up to 450 times more diesel particulates and 40 times more NO_x than trucks with air-pollution compliant engines. Further, ARB estimates that if only 7% of the trucks operating in California today were non-compliant glider vehicles, it would wipe out the entire emission benefit of the state's diesel regulations.

According to the author, glider vehicles without modern emissions controls are cheaper to purchase and operate than vehicles compliant with the state's air pollution standards; this fact, combined with the fact that glider vehicles are visually indistinguishable from new trucks with compliant equipment, creates a significant incentive for operators to skirt the law. Further, operators of non-compliant glider vehicles have a market advantage over the operators who have agreed to comply with the state's air pollution standards, creating an unfair playing field for the trucking industry.

The author contends that this bill will protect both community air quality and compliant truck operators by creating a minimum penalty for those caught operating non-compliant gliders in California.

Committee Comment: While the \$25,000 penalty for violation of this bill seems high, the California Trucking Association as the sponsor of the bill argues it is reasonable for two reasons. First, the high penalty is important to sufficiently deter operators from considering implementing glider vehicles in the state. Supporters argue that the threat needs to be significant enough or

scofflaws may believe it is worth the risk to try and operate gliders. Second, supporters of the bill believe the amount is justified because it is relatively equivalent to the price differential between a new truck with the state-mandated clean air components and that of a fully-operable glider vehicle.

REGISTERED SUPPORT / OPPOSITION:

Support

California Trucking Association (Sponsor)

UPS

Opposition

None on file

Analysis Prepared by: Eric Thronson / TRANS. / (916) 319-2093