

Date of Hearing: May 8, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 302 (Gipson) – As Amended April 17, 2017

SUBJECT: South Coast Air Quality Management District: fleets

SUMMARY: Expands the South Coast Air Quality Management District's (SCAQMD's or District's) authority to adopt regulations governing the purchase and use of public and commercial fleet vehicles in the South Coast air basin. Specifically, **this bill:**

- 1) Authorizes SCAQMD to apply fleet regulations to public and commercial fleets consisting of one or more vehicles (rather than to fleets of 15 or more vehicles as authorized in existing law).
- 2) Deletes the requirement that fleet regulations apply only when fleet operators are adding or replacing existing fleet vehicles or purchasing vehicles to form a new fleet and instead authorizes SCAQMD to require fleet operators to upgrade vehicles as directed.
- 3) Deletes the requirement that fleet vehicles be replaced with vehicles that are capable of operating on methanol or other equivalently burning alternative fuel and instead requires that fleet operators purchase zero-emission or near-zero-emission vehicles, as defined.
- 4) Defines zero-emission or near-zero-emission vehicles as a vehicle, fuel, or related technology that substantially reduces emissions of oxides of nitrogen (NO_x) by 90% or greater when compared with engines certified at the 2010 model year baseline emission standard for NO_x, as established by the California Air Resources Board (ARB) and provides that that zero-emission and near-zero-emission technologies include enabling technologies that provide a pathway to emissions reductions, advanced or alternative fuel engines for long-haul trucks, and hybrid or alternative fuel technologies for trucks and off-road equipment.
- 5) Makes findings and declarations that a special statute is necessary to the unique needs of the South Coast air basin which is designated as federal extreme non-attainment area for ozone.

EXISTING LAW:

- 1) Establishes the federal Clean Air Act (CAA), pursuant to federal law, that requires the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) for certain air pollutants due to their negative impact on public health above specified concentrations and provides that regions that do not meet any one of the standards are designated as non-attainment areas.
- 2) Authorizes SCAQMD, pursuant to SB 151 (Presley), Chapter 1301, Statutes of 1987, to adopt regulations that accomplish the following:
 - a) Require operators of public and commercial fleet vehicles, consisting of 15 or more vehicles operating within the district to purchase vehicles capable of operating on methanol or an equivalently clean burning alternative fuel when vehicles are added or replaced in an existing fleet or new vehicles when purchased to form a new fleet;

- b) Define "commercial fleet vehicles" as vehicles operated for hire, compensation, or profit;
 - c) Encourage and facilitate ridesharing for commuter trips into, out of, and within the South Coast district; and,
 - d) Prohibit or restrict, with certain exceptions, the operation of heavy-duty trucks during heavy commuter traffic on freeways and other high traffic volume highways, in consultation with California Department of Transportation (Caltrans) and California Highway Patrol (CHP).
- 3) Prohibits, pursuant to SB 1, Chapter 5, Statutes of 2017, truck owners from being required to retire, replace, retrofit or repower certain commercial trucks for a period of either 13 or 18 years (depending on the number of miles driven) after the model year the engine and emission control system are first certified for use.

FISCAL EFFECT: Unknown but potentially significant costs to fleet operators who may be required to replace existing fleet vehicles with cleaner technology vehicles earlier than they would have otherwise anticipated.

COMMENTS: The greater Los Angeles region has been plagued by poor air quality for decades. While efforts to improve air quality have been successful for the most part, the South Coast region, because of its unique topography, meteorology, and emissions from millions of vehicles, continues to suffer with some of the worst air pollution in the nation and remains out of compliance with NAAQS set by the federal CAA.

EPA requires that areas that fail to meet NAAQS (non-attainment areas) develop and implement emission reduction strategies that will bring the area into attainment in a timely manner. For the South Coast, which is designated as in extreme non-attainment for 8-hour Ozone, EPA has mandated the region to achieve attainment no later than July 20, 2032. To meet this deadline, SCAQMD developed the 2016 Air Quality Management Plan (AQMP) that outlines strategies to achieve the federal standards by the 2032 deadline.

Two of the many mobile source strategies outlined in the preliminary draft of the AQMP are outlined in this bill and call for accelerated penetration of partial zero-emission and zero-emission light- heavy- and medium duty vehicles and accelerated retirement of older on-road heavy-duty vehicles achieve NOx and PM emissions reductions. Specifically, this bill would provide the legislative authority for SCAQMD to take action on these strategies by amending authority to establish fleet regulations originally provided in SB 151.

It is important to note that SCAQMD's fleet regulations have been successfully challenged in the past by the Truck and Engine Manufacturers Association (EMA) and the Western States Petroleum Association ultimately resulting in a United States Supreme Court ruling that the district's fleet rules were tantamount to emissions standards for new motor vehicles and that specific engine requirements for commercial vehicles owned and operated by the federal government or other non-governmental entities were likely preempted by CAA. In response, the district tailored its seven fleet rules to affect purchasing or contracting procedures involving governmental entities, or those contracting with a specified governmental entity, with fleets of 15 or more for vehicles including street sweepers, clean on-road light- and medium-duty public fleet

vehicles, clean on-road transit buses, clean on-road residential and commercial refuse collection vehicles, commercial airport ground access vehicles (taxicabs, shuttles, etc.), clean on-road school buses, and clean on-road heavy-duty public fleets.

In a concurrent effort, ARB is updating its existing fleet rule for transit agencies that was first established in 2000 that required reduction in both criteria pollutant emissions and exposure to air contaminants from urban buses and transit fleets. ARB is working with key stakeholders such as public transit agencies, bus manufacturers, the environmental community, environmental justice groups, and technology providers to transform the existing fleet rule to further reduce emissions from the conventional bus fleet by requiring use of renewable fuels and the cleanest available engines and phasing-in zero emission bus purchases. The information garnered from this effort would be beneficial to the District in the development of fleet regulations authorized by this bill to ensure that the best available technologies are required, that cleaner engine requirements are phased to ensure that the cleanest possible engines are deployed over time, and that the requirements don't overly burden the regulated community.

Writing in support of this bill, the California Natural Gas Vehicle Coalition, the sponsor of the bill, notes that this bill will help ensure that California's SCAQMD is able to effectively reduce pollution from heavy-duty trucks and that switching from diesel-powered vehicles to near-zero emission natural gas vehicles will provide climate, safety, and economic benefits.

Also writing in support, Clean Energy notes that this bill would help ensure that California's regional air districts and ports are able to effectively reduce pollution from heavy-duty trucks particularly since heavy-duty trucks use diesel fuels which is responsible for the state's highest percentage of greenhouse gas and NOx emissions. They note that natural gas is abundant and proven to be a cost-saving alternative fuel that benefits the environment by reducing carbon emissions and smog-forming NOx emissions. By having the ability to adopt rules and regulations that require operators of public and commercial fleets vehicles to purchase zero-emission and near-zero-emission vehicles and that those vehicles be operated to the maximum extent feasible in the South Coast Region, this bill will help the region achieve its clean air goals.

Writing in opposition to this bill, the California Trucking Association (CTA) points out that the bill "jumps ahead" of multiple rulemaking processes of agencies with the primary authority over new motor vehicle technology (such as ARB and EPA) and note that there is a general lack of available compliant technology. Specifically, CTA notes that while the author's stated intent is to provide SCAQMD with legislative authority to initiate a local rule to require the accelerated purchase and use of near-zero and zero-emission heavy-duty on-road vehicles for public fleets within the South Coast Basin they contend that the inclusion of "commercial fleet vehicles" owned and operated by private fleets not under contract to state or local public entities is inconsistent with case law developed under *Engine Manufacturers Association et.al. v. South Coast Air Quality Management District* and is likely preempted by the CAA.

Also writing in opposition to this bill, EMA argues that CAA expressly prohibits SCAQMD from adopting or attempting to enforce "any standard relating to the control of emissions from new motor vehicle or new motor vehicle engines." EMA notes that the California Legislature is preempted from delegating to the SCAQMD the authority to set emission standards for new motor vehicles, and the SCAQMD is expressly preempted from exercising this authority, making this bill unlawful.

Writing to express their concerns with this bill, the League of California Cities (League) writes that while it supports the reduction of vehicle emissions in public fleets, this bill sets a very strict definition for the term "zero-emission" and "near-zero-emission" potentially favoring a very limited share of technologies to meet air quality standards. The League goes on to state that municipalities should not be limited to purchasing entire public fleets that benefit certain technologies over other technologies that could potentially achieve the same goals or help cities achieve emissions reduction goals more effectively. They also point out that municipalities benefit from competition in the green energy space from lower costs, additional innovation, and from technologies that better suit individual community needs and limiting the type of clean technology vehicle that municipalities can procure, runs counter to emissions reduction goals and works to drive up costs.

Committee comments:

- 1) Given that a substantial portion of air pollutants in the south coast air basin comes from mobile sources, it stands to reason that SCAQMD needs to find a way to reduce emissions in the transportation sector and giving them the tools to accelerate turnover of the fleet to zero- and near-zero emission vehicles would be beneficial, there are concerns that this bill gives the district too much authority in that they could force not only public fleets but also private fleets that contract with public entities to purchase new, compliant vehicles regardless of whether or not the municipality or business has the means to do so, which could create a significant financial crises for some entities and/or drive others out of business.
- 2) This bill could have the unfortunate effect of delaying the progression to zero-emission engines for heavy-duty vehicles. For example, under the bill's narrow definition of qualifying zero- and near zero-emission technologies, only one heavy-duty vehicle engine manufacture would meet the requirement. Depending on how, or if, the district implements this bill, there could be an unintended consequence of forcing truck owners to buy the one engine that is currently available. This, coupled with recently enacted provisions in SB 1 that allow commercial truck owners to keep their trucks for a period of either 13 or 18 years, could effectively lock in the near zero-emission option and potentially lock-out even cleaner options for that time span.
- 3) This bill has the potential to substantially increase operating costs for fleet owners if they are required to replace vehicles on a schedule established by SCAQMD rather than as authorized by existing law. This could create a significant financial burden for municipalities and small business that contract with them.

Related legislation: SB 4 (Mendoza) authorizes, upon voter approval, the issuance of \$600 million in general obligation bonds for goods movement, as specified, as well as establishing procedures for the allocation of freight funding under the federal Fixing America's Surface Transportation Act through the Trade Corridors Improvement Fund program. SB 4 passed out of the Senate Transportation and Housing, Senate Environmental Quality and Senate Governance and Finance Committees and is set to be heard in the Senate Appropriations Committee on May 15, 2017.

Previous legislation: SB 151 (Presley), Chapter 1301, Statutes of 1987, authorized SCAQMD to adopt regulations that require operators of public and commercial fleet vehicles to purchase vehicles capable of operating on methanol or an equivalently clean burning alternative fuel when

vehicles are added or replaced in an existing fleet and to prohibit or restrict, with certain exceptions, the operation of heavy-duty trucks ruing heavy commuter traffic on freeways and other high traffic volume highways in the South Coast area.

SB 1 (Beall), Chapter 5, Statutes of 2017, increases several taxes and fees to raise the equivalent of roughly \$52.4 billion over ten years to complete deferred maintenance on the state highways and local streets and roads, and to improve the state's trade corridors, transit, and active transportation facilities. SB 1 includes provisions ensuring that old, dirty trucks are brought into compliance with ARB's Truck and Bus Regulation and provides that trucks subject to future, undefined regulations not be required to replace or modify their trucks until they have reached 13 years from the model year the engine and emissions control systems are first certified or until they reach 800,000 vehicle miles traveled, whichever is later.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Natural Gas Vehicle Coalition (Sponsor)
Clean Energy
Coalition for Clean Air
Tesla

Opposition

California Trucking Association
Truck and Engine Manufacturers Association

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