

SENATE THIRD READING
 SB 715 (Delgado)
 As Amended August 27, 2018
 Majority vote

SENATE VOTE: vote not relevant

Committee	Votes	Ayes	Noes
Business & Professions		vote not relevant	

SUMMARY: Requires the Air Resources Board (ARB) to exempt an off-road, diesel-fueled vehicle owned or operated by a state-registered non-profit apprenticeship training program from any in-use off-road, diesel-fueled vehicle emission regulation, but continues to require these vehicles to be labeled and reported to ARB. If the ARB determines at a public hearing that this exemption violates the state implementation plan (SIP) as required by the Federal Clean Air Act (FCAA), ARB must delay the implementation of this exemption, until it has submitted an amended SIP to the United States Environmental Protection Agency for approval.

EXISTING LAW:

- 1) Establishes the Federal Clean Air Act (FCAA), with its implementing regulations: a) setting National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, b) designating air basins that do not achieve NAAQS as non-attainment; and, c) requiring states with non-attainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS.
- 2) Establishes ARB as the air pollution control agency in California and requires ARB, among other things, to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards at the earliest practicable date.
- 3) Establishes the Global Warming Solutions Act of 2006, [AB 32 (Núñez), Chapter 244, Statutes of 2006], that requires ARB to establish programs to reduce GHG emissions to 1990 levels by 2020 including the use of market-based mechanisms (cap-and-trade) to comply with these regulations.
- 4) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.

AS PASSED BY THE ASSEMBLY, this bill added failure to attend board meetings to the justification for removal of an appointed board member by the Governor.

FISCAL EFFECT: Unknown

COMMENTS: In order to achieve the health-based air quality standards criteria and other air pollutants under the state and federal Clean Air Acts, reduce public exposure to toxic air contaminants such as diesel particulate matter (PM), and reduce greenhouse gas emissions to 1990 levels by 2020, with further reductions to 40% below 1990 levels by 2030, ARB has established regulations on off-road heavy-duty vehicles and equipment, including cranes.

The overall purpose of the Off-Road regulation is to reduce emissions of oxides of nitrogen (NO_x) and PM from off-road diesel vehicles operating within California. The Off-Road regulation applies to self-propelled off-road vehicles (i.e. equipment or machines) with diesel-fueled or alternative diesel fueled (including biodiesel) engines that are 25 horsepower (hp) or greater. The vehicle is considered an off-road vehicle if it cannot be registered and driven safely on-road or was not designed to be driven on-road (this includes vehicles that were designed/manufactured for off-road use, but have since been modified so it can be driven safely on-road). The Off-Road regulation also applies to several types of on-road vehicles (such as, workover rigs) and many two-engine vehicles (such as, two-engine cranes). Such vehicles are typically used in construction, mining, and industrial operations. Examples of vehicles covered by the Off-Road regulation include, but are not limited to, aerial lifts, cargo loaders, excavators, forklifts and trenchers.

Personal use vehicles, vehicles used solely for agriculture, vehicles that are awaiting sale, and vehicles already covered by the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards (Cargo Handling regulation), are exempt from the Off-Road regulation. Emergency operations vehicles, Job Corps (a non-profit apprenticeship training program) fleets, dedicated snow removal vehicles, low-use vehicles (used under 200 hours per year, as confirmed by a non-resettable hour meter), and vehicles used a majority of the time (but not solely) for agricultural operations, must be reported to ARB and labeled, but are exempt from the performance (i.e. emission) requirements of the Off-Road Regulation.

The Off-Road regulation imposes limits on idling, requires all vehicles to be reported to ARB, restricts the adding of older vehicles into fleets starting January 1, 2014, and requires off-road heavy duty fleets to reduce their emissions by retiring, replacing, or repowering older engines or installing exhaust retrofits. The requirements and compliance dates of the Off-Road Regulation vary by fleet size which is measured by the combined hp under the fleet. By each annual compliance deadline, a fleet must demonstrate that it has either met the fleet average emission target for that year or has completed the Best Available Control Technology (BACT) requirements (i.e. retiring, designating as low-use or retrofitting). Large fleets (more than 5,000 hp) have compliance deadlines each year from 2014 through 2023, medium fleets (2,501-5,000 hp) each year from 2017 through 2023, and small fleets (2,500 hp or less) each year from 2019 through 2028. However, non-profit training centers are considered small fleets, even if their total hp exceeds 2,500 hp. This means that non-profit training centers do not need to begin meeting the fleet average targets or fulfilling the BACT requirements until 2019, and have a smaller compliance burden in comparison to larger fleets with comparable hp. Per the regulation, a non-profit training center is defined as an entity that operates a program for training in the use of off-road vehicles and that a) is a community college program that trains students in the use of off-road vehicles or b) qualifies as a non-profit or not for profit organization under title 26 of Internal Revenue Code Section 501(a), (c)(3), (c)(5), or (c)(6).

Apprenticeship is a workforce development strategy that trains an individual in a specific occupation using a structured combination of on-the-job training and related instruction.

Registered Apprenticeships are apprenticeship programs that have been certified (“registered”) by the Department of Industrial Relations (DIR). DIR is responsible for registering programs to meet specified federal and state standards. DIR must also partner with a State Apprenticeship Council (SAC). The SAC must consist of an equal number of representatives of employer and employee organizations. In practice, the occupations with the largest number of apprentices tend to be in the skilled trades and construction. California currently has more than 53,000 apprentices across a variety of occupations.

According to the author, “SB 715 will ensure that construction apprentices who operate heavy equipment and cranes have ample opportunities to learn their trade and further their careers. Currently, ARB has adopted regulations in an effort to reduce harmful carbon emissions from in-use, off-road diesel-fueled vehicles. CARB regulations additionally provide that certain non-profit apprenticeship training programs, such as Job Corps, are not required to meet the performance standards specified in the regulations. This bill would add state-registered apprentice programs for heavy equipment and cranes to that same standard”.

In opposition, the American Lung Association in California and several other organizations concerned with air quality write, “Exempting older diesel equipment from emissions control standards would increase localized diesel emission hot spots, would threaten the health of local residents and students/workers training on the equipment and ultimately could shift lost emissions reductions to other sources while delaying overall cleanup, including in regions that fail to achieve health-based federal particle pollution standards”.

In support, the International Union of Operating Engineers contend that equipment used to train apprentices are used significantly less and with less exertion than equipment used in a typical job site, resulting in less emissions and nominal impacts, and notes that complying with existing regulations are costly and will divert millions of dollars from important training efforts. Additionally, supporters argue that designating equipment as low-use to comply with regulations will restrict the ability to use these machines for training.

Committee Comments: It is unclear if a state-registered non-profit apprenticeship training program is considered a non-profit training center, however, it is important to note that non-profit training programs already were given a delay in the regulation and this bill could impact the State’s ability to meet our federally mandated clean air goals. Through the FCAA, the federal government requires California to meet certain air quality standards to reach attainment and prepare a SIP. The state and ARB have moved forward with stringent regulations to reduce pollution and comply with FCAA. By exempting one category of vehicle from existing regulations, we may be undermining our state goals and our ability to meet federal attainment goals. If so, ARB will have to determine how this new exemption will affect attainment and potentially require more stringent regulations from other sources/entities.

Additionally, providing an exemption for one category may presumably lead to other industries coming back to the Legislature to seek an exemption. Rather than prohibiting ARB from imposing regulations, the state may wish to focus on incentives and augmenting programs that help non-profits comply with regulations.