

Date of Hearing: January 8, 2024

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Lori D. Wilson, Chair

AB 637 (Jackson) – As Amended September 6, 2023

**SUBJECT:** Zero-emission vehicles: fleet owners: rental vehicles

**SUMMARY:** Requires the California Air Resources Board (CARB) to authorize a fleet owner’s rental of a zero-emission vehicle (ZEV), or ZEVs, for a cumulative total of 260 days per year to be considered ownership of one ZEV. Specifically, **this bill:**

- 1) Defines “fleet” to mean one or more vehicles owned by a fleet owner or that are operated under the common ownership or control of a controlling party and “fleet owner” to mean the person or entity that owns the vehicles comprising the fleet.
- 2) Defines “vehicle” to mean a vehicle that either a) has a gross vehicle weight rating greater than 8,500 pounds; b) is a light-duty package delivery vehicle; or, c) is a yard tractor.
- 3) Exempts from the Administrative Procedure Act (APA) any regulation adopted, or revision CARB makes related to this bill.

**EXISTING LAW:**

- 1) Establishes CARB as the air pollution control agency in California and requires CARB, among other things, to control emissions from a wide array of mobile sources and coordinate with local air districts to control emission from stationary sources in order to implement the Federal Clean Air Act. (HSC 39602; HSC 39602.5)
- 2) Requires CARB, pursuant to California Global Warming Solutions Act of 2006 (AB 32 (Núñez), Chapter 488, Statutes of 2006) to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to develop a scoping plan for achieving the maximum technologically feasible and cost effective reductions in GHGs. (HSC 38500)
- 3) Requires, pursuant to SB 32 (Pavley), Chapter 249, Statutes of 2016 that CARB ensure that statewide GHG emissions are reduced to at least 40% below 1990 levels by 2030. (HSC 38566)
- 4) Provides, pursuant to the California Climate Crisis Act (AB 1279 (Muratsuchi), Chapter 337, Statutes of 2022) that it is the policy of the state to do both of the following:
  - a) Achieve net zero GHG emissions as soon as possible but no later than 2045; and,
  - b) Ensure that by 2045, GHG emissions are reduced to at least 85% below 1990 levels.

Existing regulation:

- 1) Defines fleet as one or more vehicles owned by a fleet owner that are operated under the common ownership or control of a controlling party, and also includes rental or leased vehicle that are considered owned by the fleet owner.

- 2) Bases vehicle ownership on the vehicle registration document or the vehicle title except for vehicles that are rented, or leased, from a rental business where the rental agreement for the vehicle (singular) is for a period of one or more years and the terms of the rental agreement identifies the renting operator as the party responsible for compliance with state laws. (Title 13, Division 3, Chapter 1, Article 3.4, Section 2015 (b))

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*The state's climate goals require emissions reductions in the transportation sector.* The Legislature has set a number of goals to reduce GHG emissions and address climate change. The Global Warming Solutions Act of 2006, AB 32 (Nuñez), Chapter 488, Statutes of 2006 and subsequent companion legislation SB 32 (Pavley), Chapter 249, Statutes of 2016, requires California to reduce statewide GHG emissions to 40% below the 1990 level by 2030. AB 1279 (Muratsuchi), Chapter 337, Statutes of 2022 establishes the policy of the state to achieve carbon neutrality as soon as possible, but no later than 2045. CARB is responsible for developing a Scoping Plan to detail how the state will achieve its GHG emissions reduction targets mandated by law.

*Transportation is the largest source of GHGs in the state.* Nearly 40% of California's GHG emissions are generated by the transportation sector, which includes both the light-duty (passenger) and medium- and heavy-duty fleets. That percentage increases when taking into account the production of transportation fuels. Heavy-duty diesel trucks also contribute to unhealthy levels of ozone, inhalable particulate matter, carbon monoxide, oxides of nitrogen (NOx), and sulfur dioxide, affecting local air quality and severely impacting human health with disproportionate impacts felt in low-income, underserved communities. In the transportation sector, measures to reduce GHG emissions include requiring the use of low carbon fuels, cleaner vehicles, and strategies to promote sustainable community planning and improved transportation choices that reduce growth in number of vehicle miles traveled.

*Advanced Clean Fleet (ACF) Regulation.* To further these efforts, at the end of 2020, Governor Newsom issued EO N-79-20 which requires 100% of in-state sales of new passenger cars and trucks to be zero-emission by 2035. EO N-79-20 charges CARB with developing and proposing passenger vehicle and truck regulations requiring increasing volumes of new ZEVs sold in the state. CARB spent three years developing ACF which went into effect in late 2023 with initial compliance and reporting dates phasing in for certain fleets December 31, 2023.

ACF requires, starting in 2036, all Class 2b-8 vehicles sold into California to be ZEVs. These vehicles range from pick-up trucks weighing over 8,500 pounds to “semi” trucks or 18-wheelers weighing 33,000 pounds or more. ACF additionally sets purchase requirements for three main fleet categories: 1) drayage trucks; 2) high priority fleets; and 3) state and local government fleets.

“High priority” fleets are entities that own, operate, or direct at least one vehicle in California, and that have **either \$50 million or more in gross annual revenues, or** that own, operate, or have common ownership or control of a total of **50 or more vehicles**. Large truck rental companies such as Enterprise, the sponsors of this bill, are a high priority fleet. Therefore, ACF requires truck rental companies to have ZEVs as an increasing percentage of their fleet beginning in 2024.

This bill requires CARB to deem a fleet owner ownership of one ZEV, for compliance purposes, if the cumulative rental of a ZEV, or **multiple ZEVs**, is **260 days in a calendar year**. Currently ACF, requires that **a single ZEV** must be rented for a period of **one or more years** to be counted as ownership of one ZEV. As an example, this bill would allow a local government to rent 10 ZEV vehicles for 26 days and count these rentals towards the ownership of one ZEV, for purposes of ACF compliance.

*Staff comments:*

*Intends to provide increased flexibility for compliance.* Beginning this year, ACF requires rental companies to have increasing numbers of ZEVs in their fleets. Rental companies have expressed concerns that ZEV trucks may sit idle at rental locations throughout the state, because many of their customers are not subject to ACF. This bill could allow public and private fleets to count shorter-term rental ZEV trucks toward compliance with the rule and prevent ZEVs from sitting idle on rental lots. This bill could also help large businesses that need an increased supply of vehicles during busier seasons to comply with ACF.

However, in its current form the bill does not explicitly say that the rental company, i.e. Enterprise, would also be allowed to count the same rentals towards their own fleet compliance. As such, it is unclear if this bill will do what the author intends, which is to have the rental companies retain credit for a ZEV purchase while also allowing the company that is renting the ZEV to receive credit.

*The impacts of dual crediting are unknown.* Dual crediting could be a reasonable trade-off because otherwise ACF may inadvertently encourage the rental of ICE vehicles for certain fleets. Easing compliance pathways may help the state accomplish its objectives of increasing ZEV adoption. However, dual crediting could also impact how CARB counts the emissions benefits of its ACF regulation.

*APA exemption may reduce public participation.* The author intends to reduce fiscal impacts by exempting any changes to ACF required by this bill from the APA. This is potentially problematic because it reduces transparency and the opportunity for public participation in the process.

According to the author, “[This bill] is a common sense measure that fills a hole in the ACF regulation. It authorizes regulated fleets, including local governments, to comply with ACF by renting a ZEV truck. ACF currently affords this flexibility to fleets but only if they rent a ZEV truck for one year or longer. There is no meaningful difference between 364 and 365 days. Rental companies that are subject to the ACF are not traditional fleets. Even though ACF requires them to purchase ZEV trucks, they have no control over who rents them and may otherwise sit idle and not contribute to emissions reductions. Given the numerous challenges fleet face in complying with ACF, particularly local governments lacking sufficient resources, [this bill] authorizes a simple mechanism to encourage fleets to rent an EV truck instead of a diesel one.”

In support, a coalition writes, “Unfortunately, the ACF regulation does not allow a fleet owner to claim compliance credit for renting a zero emission truck over its internal combustion counterpart. This oversight unreasonably restricts the options available to fleet owners, particularly those with less resources and limited budgets that are looking for cost-effective ways to meet the ACF’s ambitious goals. Absent the ability for rental to be counted towards

compliance, some fleets may be more inclined to rent an internal combustion engine (ICE) truck in order to avoid the reach of the ACF. For example, fleets with 50 or more trucks are covered by the ACF. A fleet with 55 trucks could remove six trucks from their fleet and alternatively rent six ICE trucks. We believe the ACF should instead contain a mechanism to encourage a fleet to rent a ZEV truck in order to minimize the risk of this scenario.”

**REGISTERED SUPPORT / OPPOSITION:****Support**

California State Association of Counties

California Trucking Association

CALSTART

Enterprise Mobility

League of California Cities

**Opposition**

None on file

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