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CHAPTER 91
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INTRODUCED BY Committee on Budget and Fiscal Review

JANUARY 14, 2005

An act to amend the heading of Chapter 14 (commencing with Section 13400) of Division 5 of, to amend Section 13401 of, and to add Article 5.5 (commencing with Section 13446) to Chapter 14 of Division 5 of, the Business and Professions Code, and to amend Sections 384 and 740.8 of, and to add and repeal Section 901 of the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 76, Committee on Budget and Fiscal Review Energy.

(1) Existing law requires the Department of Food and Agriculture to adopt specifications for gasoline or automotive spark-ignition fuels for use in internal combustion engines and motor vehicles and to use by reference the latest standards of the American Society for Testing and Materials (ASTM). Existing law also makes it unlawful for any person to sell, offer for sale, or cause or permit to be sold or offered for sale, or deliver or offer for delivery, any petroleum product as a fuel for internal combustion engines at any place where petroleum products are kept or stored for sale, which does not conform to these provisions, unless specified requirements are met.

This bill would add hydrogen fuels to these provisions for use in internal combustion engines and fuel cells in motor vehicles. By expanding the definition of a crime, the bill would impose a state-mandated local program.

The bill would require the department, by January 1, 2008, with the concurrence of the State Air Resources Board, to establish specifications for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles until a standards development organization accredited by the American National Standards Institute (ANSI) formally adopts standards for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles. It would require the department, at that time, to adopt those standards, except as specified.

The bill would, until January 1, 2007, appropriate the sum of \$6.5 million from the Motor Vehicle Account to the State Air Resources Board to fund the state's share of various activities relating to hydrogen-powered vehicles. The bill would require the board to prepare certain reports and take other specified actions with respect to hydrogen fuel.

(2) Existing law provides for the collection of funds to provide funds for the Public Interest Research Development, and Demonstration Fund, pertaining to public interest research, development, and demonstration.

This bill would provide that those funds may be expended for transportation related public interest energy research if it provides an electricity ratepayer benefit.

(3) Existing law defines interest of ratepayers in connection with public utilities.

This bill would provide that interests of ratepayers also includes activities that benefit ratepayers and that promote energy efficiency, reduction of health and environmental impacts from air pollution, and greenhouse gas emissions related to electricity and

natural gas production and use, and increased use of alternative fuels.

(4) Existing law provides for a surcharge on natural gas to provide low income assistance, energy efficiency and conservation activities, and public interest research and development.

This bill would provide that the funds for public interest energy research and development shall be administered by the Energy Resources Conservation and Development Commission for specified purposes, including specified transportation related purposes. The bill would repeal these provisions on January 1, 2009.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Chapter 14 (commencing with Section 13400) of Division 5 of the Business and Professions Code is amended to read:

CHAPTER 14. PETROLEUM AND HYDROGEN FUELS

SEC. 2. Section 13401 of the Business and Professions Code is amended to read:

13401. (a) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.

(b) "Manufacturer" means manufacturer, refiner, producer, or importer.

(c) "Petroleum products" means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, or white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears, or axles.

(d) "Barrel," when applied to petroleum products, consists of 42 gallons.

(e) "Oil" means motor oil, engine lubricant, engine oil, lubricating oil, or oils used to lubricate transmissions, gears, or axles.

(f) "Motor oil" means engine oil, engine lubricant, or lubricating oil.

(g) "Gasoline" means a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines.

(h) "Engine fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine or fuel cell.

"Motor fuel" means "engine fuel" when that term is used in this chapter.

(i) "Motor vehicle fuel" means any product intended for consumption in an internal combustion engine or fuel cell to produce the power to self-propel a vehicle designed for transporting persons or property on a public street or highway.

(j) "Diesel fuel" means any petroleum product offered for sale which meets the standards prescribed for diesel fuel by this chapter.

(k) "Kerosene" means any petroleum product offered for sale which meets the standards prescribed for kerosene by this chapter.

(l) "Fuel oil" means any petroleum product offered for sale which meets the standards prescribed for fuel oil by this chapter.

(m) "Automotive spark-ignition engine fuel" means any product used for the generation of power in a spark-ignition internal combustion

engine.

(n) "Compression-ignition engine fuel" means any product used for the generation of power in a compression-ignition internal combustion engine.

(o) "Gasoline-oxygenate blend" means a fuel consisting primarily of gasoline along with a substantial amount of one or more oxygenates. For purposes of this section, "substantial amount" means more than 0.35 mass percent oxygen or, if methanol is the only oxygenate, more than 0.15 mass percent oxygen.

(p) "Oxygenate" means an oxygen-containing, ashless, organic compound such as an alcohol or ether, which can be used as a fuel or fuel supplement.

(q) "Developmental engine fuel" means any experimental automotive spark-ignition engine fuel or compression-ignition fuel which does not meet current standards established by this chapter but has characteristics which may lead to an improved fuel standard or the development of an alternative fuel standard.

(r) "Hydrogen" means a fuel composed of the chemical hydrogen intended for consumption in an internal combustion engine or fuel cell.

SEC. 3. Article 5.5 (commencing with Section 13446) is added to Chapter 14 of Division 5 of the Business and Professions Code, to read:

Article 5.5. Standards for Hydrogen

13446. On or before January 1, 2008, the department, with the concurrence of the State Air Resources Board, shall establish specifications for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles until a standards development organization accredited by the American National Standards Institute (ANSI) formally adopts standards for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles. The department shall then adopt by reference the latest standards established by the ANSI-accredited standards development organization for hydrogen fuel for use in internal combustion engines and fuel cells in motor vehicles, except that no specification or standard shall be less stringent than is required by state law.

SEC. 4. Section 384 of the Public Utilities Code is amended to read:

384. (a) Funds transferred to the State Energy Resources Conservation and Development Commission pursuant to this article for purposes of public interest research, development, and demonstration shall be transferred to the Public Interest Research, Development, and Demonstration Fund, which is hereby created in the State Treasury. The fund is a trust fund and shall contain money from all interest, repayments, disencumbrances, royalties, and any other proceeds appropriated, transferred, or otherwise received for purposes pertaining to public interest research, development, and demonstration. Any appropriations that are made from the fund shall have an encumbrance period of not longer than two years, and a liquidation period of not longer than four years.

(b) Funds deposited in the Public Interest Research, Development, and Demonstration Fund may be expended for projects that serve the energy needs of both stationary and transportation purposes if the research provides an electricity ratepayer benefit.

(c) The State Energy Resources Conservation and Development Commission shall report annually to the appropriate budget committees of the Legislature on any encumbrances or liquidations that are outstanding at the time the commission's budget is submitted to the Legislature for review.

SEC. 5. Section 740.8 of the Public Utilities Code is amended to read:

740.8. As used in Section 740.3, "interests" of ratepayers, short- or long-term, mean direct benefits that are specific to ratepayers in the form of safer, more reliable, or less costly gas or electrical service, consistent with Section 451, and activities that benefit ratepayers and that promote energy efficiency, reduction of

health and environmental impacts from air pollution, and greenhouse gas emissions related to electricity and natural gas production and use, and increased use of alternative fuels.

SEC. 6. Section 901 is added to the Public Utilities Code, to read:

901. (a) Funds allocated pursuant to this article for public interest energy research and development shall be administered by the Energy Resources Conservation and Development Commission consistent with orders and decisions adopted by the commission.

(b) One half of funds allocated pursuant to this article for natural gas public interest energy research and development shall be expended pursuant to a strategic research plan jointly developed by the state Air Resources Board and the Energy Resources Conservation and Development Commission to ensure coordination of the state's energy and environmental research priorities. The plan shall be submitted for review and approval to the commission.

(c) Up to one-third of the funds allocated pursuant to this article may be used for transportation related public interest energy research and development provided the research provides natural gas ratepayer benefits and those benefits are identified in the plan.

(d) Funds allocated in subdivisions (b) and (c) shall not be used for the California Hydrogen Blueprint Plan.

(e) This section shall remain in effect until January 1, 2009, and as of that date is repealed unless a later enacted statute extends or repeals that date.

SEC. 7. (a) The sum of six million five hundred thousand dollars (\$6,500,000) is hereby appropriated from the Motor Vehicle Account to the State Air Resources Board to fund the state's share of the following activities:

(1) The establishment of up to three demonstration hydrogen fueling stations in the state. Each station shall provide public access, shall meet or exceed the environmental goals of the California Hydrogen Blueprint Plan, and shall use renewable energy, such as **solar** energy, to produce and dispense hydrogen, or combine fuel dispensing with electricity generation to power the station. As a condition of receipt of the funds, the State Air Resources Board shall require that each station be open to the public during convenient hours, encourage station locations that provide a convenient network for hydrogen fueling, encourage innovation in design, recognize appropriate buffer zones between station location and sensitive receptors, as indicated in public meetings and workshops held pursuant to paragraphs (1) and (2) of subdivision (d), and mitigate any adverse impacts on affected neighborhoods.

(2) The leasing by the state of a diverse fleet of up to 12 hydrogen-powered vehicles, and the purchase of up to two hydrogen internal combustion engine vehicles such as shuttle buses for use in university or airport shuttle operations. These vehicles shall demonstrate the viability and functionality of hydrogen as a transportation fuel and of hydrogen powered vehicle technology.

(3) The employment of support staff on a two-year, limited term basis, to implement this section and to implement the activities required pursuant to Chapter 14 (commencing with Section 13400) of Division 5 of the Business and Professions Code.

(b) The activities funded pursuant to this section shall contribute to the achievement of the following energy and environmental goals by 2010:

(1) A 30 percent reduction in greenhouse gas emissions relative to comparable emissions from current-year vehicles.

(2) The utilization of at least 33 percent new renewable resources in the production of hydrogen for vehicles.

(3) No increase in toxic or smog-forming emissions.

(c) Projects and vehicle leases entered into pursuant to this section shall be selected through a duly-noticed public bidding process.

(d) Prior to expending funds pursuant to this section, the State Air Resources Board shall do all of the following:

(1) Hold at least one public meeting of the CAL-EPA Environmental Justice Advisory Committee established pursuant to Section 72002 of

the Public Resources Code to solicit that committee's input on the appropriate siting criteria and location of hydrogen fueling stations and production facilities to address any environmental justice concerns.

(2) Hold at least one public workshop in each of the northern, central, and southern regions of the state for the purposes of accepting public testimony and input on hydrogen production and fueling bid criteria, and siting and location criteria.

(3) Develop and adopt appropriate siting criteria consistent with the board's Air Quality and Land Use Handbook. In developing these criteria, the board shall consider input from public meetings and workshops conducted pursuant to paragraphs (1) and (2).

(4) At least 30 days prior to the adoption of any siting criteria, or specific locations, for projects funded pursuant to this section, make available to the public those siting criteria and locations for review and comment.

(e) The California Environmental Protection Agency, in conjunction with the State Air Resources Board, the Office of Environmental Health Hazard Assessment, and any other appropriate state entity, shall report to the Legislature every six months on implementation of this section, including the status of funds expended and compliance with the provisions of this section.

(f) On or before December 31, 2006, the State Air Resources Board shall report to the Legislature on the status of transportation-related hydrogen activities in other states, including a discussion of siting criteria and the selection of actual sites, the impact of hydrogen highway infrastructure and activities on the affected communities and neighborhoods, and the development of hydrogen related business activity in California. The report may include recommendations regarding the continued deployment of hydrogen fueling stations in the state.

(g) Nothing in this section shall affect any requirement of law or regulation affecting the siting, construction, or operation of facilities funded pursuant to this section.

(h) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.