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SB-1013 Fluorinated refrigerants. (2017-2018)

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Senate Bill No. 1013

CHAPTER 375

An act to add Section 39734 to the Health and Safety Code, and to add Division 45 (commencing with Section 76000) to the Public Resources Code, relating to greenhouse gases.

[Approved by Governor September 13, 2018. Filed with Secretary of State September 13, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1013, Lara. Fluorinated refrigerants.

(1) Existing law prohibits the manufacture and sale of specified chlorofluorocarbons (CFCs) as aerosol propellants, limits the percentage of new motor vehicles equipped with air-conditioners that utilize CFC-based products, requires the State Air Resources Board to adopt regulations to provide for the enforcement of those provisions, and imposes a civil penalty on persons violating those provisions.

This bill would apply all prohibitions on the use of class I substances, as defined, class II substances, as defined, and substitutes, as defined, under the federal Clean Air Act, as it read on specified dates, except as specified. The bill would authorize the state board to include in a specified regulation the modification of the deadlines of those prohibitions, a prohibition on the use of any substitute, and the creation and update of a list of approved substitutes, use conditions, or use limits if the state board makes certain findings for each. The bill would allow a violation of these provisions to be enjoined and would subject persons who violate these provisions to specified penalties. The bill would require all civil penalty money collected by the state board to be deposited in the Air Pollution Control Fund rather than the General Fund. Because a violation of these requirements would also be a crime, this bill would impose a state-mandated local program.

This bill would establish the Fluorinated Gases Emission Reduction Incentive Program, to be administered by the state board, to promote the adoption of new refrigerant technologies to achieve short- and long-term climate benefits, energy efficiency, and other cobenefits, as specified. The bill would authorize moneys from the Greenhouse Gas Reduction Fund to be allocated for incentives offered as part of the program.

This bill would require the Public Utilities Commission to consider developing a strategy for including low-global-warming-potential refrigerants in equipment funded by the energy efficiency programs overseen by the Public Utilities Commission.

This bill would require the State Energy Resources Conservation and Development Commission to identify opportunities to assess the energy efficiency performance for low-global-warming-potential alternatives to current fluorinated-gas-based appliances and equipment.

This bill would require the Department of Community Services and Development to consider integrating low global warming potential as part of its ongoing administration of energy efficiency programs for household appliances.

(2) 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 39734 is added to the Health and Safety Code, to read:

39734. (a) The Legislature finds and declares that certain fluorinated gases are potent causes of global warming, and it is in the public interest that restrictions or prohibitions on the use of these gases be maintained and enhanced as appropriate in the state.

(b) For purposes of this section, the following definitions apply:

(1) "Class I substances" and "class II substances" mean those substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.

(2) "Hydrofluorocarbons" mean fluorinated gases used primarily as refrigerants in refrigeration, air-conditioning equipment, foam expansion agents, aerosol propellants, solvents, and fire suppressants.

(3) "Residential consumer refrigeration products" has the same meaning as defined in Section 430.2 of Subpart A of 10 C.F.R. Part 430.

(4) "Substitute" means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including, but not limited to, hydrofluorocarbons.

(c) (1) All prohibitions on the use of class I substances and class II substances as set forth in 42 U.S.C. Secs. 7671a and 7671k, as those read on November 15, 1990, or any substitute as set forth in Appendix U and Appendix V of Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, shall apply, except as otherwise provided by in paragraph (3), state statute, or state regulation.

(2) If the United States Environmental Protection Agency approves a previously prohibited hydrofluorocarbon blend for foam blowing pursuant to the Significant New Alternatives Policy Program, adopted pursuant to Section 7671k of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the state board shall expeditiously initiate a rulemaking pursuant to this section or other existing legal authority to conform its regulations with that federal action.

(3) (A) Prohibitions on residential consumer refrigeration products, except compact and built-in residential consumer refrigeration products, shall take effect January 1, 2022.

(B) Prohibitions on built-in residential consumer refrigeration products shall take effect on January 1, 2023.

(d) The state board may adopt a regulation that includes any of the following:

(1) The modification of the deadlines of a prohibition established pursuant to subdivision (c) if the state board determines that the modified deadline meets both of the following:

(A) Reduces the overall risk to human health or the environment.

(B) Reflects the earliest date that a substitute is currently or potentially available.

(2) The prohibition on the use of any substitute if the state board determines that the prohibition meets both of the following criteria:

(A) Reduces the overall risk to human health or the environment.

(B) A lower-risk substitute is currently or potentially available.

(3) The creation of a list of approved substitutes, use conditions, or use limits, if any, and the addition or removal of substitutes, use conditions, or use limits to or from the list of approved substitutes if the state board determines those substitutes reduce the overall risk to human health and the environment.

(e) A person shall not offer any equipment or product for sale, lease, rent, or otherwise cause any equipment or product to enter into commerce in California if that equipment or product uses or will use a substitute in a manner inconsistent with any of the following:

(1) Any prohibitions in subdivision (c).

(2) Any prohibitions, use conditions, or use limits in subdivision (d) or a state regulation.

(3) Any other applicable laws, including, but not limited to, the California Building Standards Code (Title 24 of the California Code of Regulations).

(f) (1) The state board may enforce this section. A violation of the requirements of this section may be enjoined pursuant to Section 41513 and is subject to the penalties set forth in Article 3 (commencing with Section 42400) of Chapter 4 of Part 4.

(2) Notwithstanding subdivisions (i) and (j) of Section 42410, the state board may impose an administrative penalty pursuant to Section 42410.

(3) Penalties collected pursuant to this section shall be deposited in the Air Pollution Control Fund.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. Division 45 (commencing with Section 76000) is added to the Public Resources Code, to read:

DIVISION 45. Fluorinated Refrigerants

76000. For purposes of this division, "GWP" means global warming potential.

76002. The Public Utilities Commission shall consider developing a strategy for including low-GWP refrigerants in equipment funded by the energy efficiency programs overseen by the Public Utilities Commission.

76004. The State Energy Resources Conservation and Development Commission shall identify opportunities to assess the energy efficiency performance for low-GWP alternatives for current fluorinated-gas-based appliances and equipment.

76006. The Department of Community Services and Development shall consider integrating low GWP as part of its ongoing administration of energy efficiency programs for household appliances, including, but not limited to, the Energy Efficiency Low-Income Weatherization Program.

76008. (a) (1) The Fluorinated Gases Emission Reduction Incentive Program is hereby established to be administered by the State Air Resources Board to promote the adoption of refrigerant technologies to achieve short- and long-term climate benefits, energy efficiency, and other cobenefits.

(2) Moneys for the program shall be available to the State Air Resources Board, upon appropriation by the Legislature, including, but not limited to, moneys from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code.

(b) The state board may contract with a third party to administer this section.

(c) Eligible applicants shall be users of systems of refrigerant technologies.

(d) When awarding incentives, the State Air Resources Board shall prioritize both of the following:

(1) Low-GWP alternatives that maximize emissions reductions and focus on key cooling sectors where technology is commercially available.

(2) The use of low-GWP alternatives in new technologies for which higher upfront costs, compared with hydrofluorocarbon systems, have been identified by the State Air Resources Board as a market impediment.

(e) The program shall include all of the following:

(1) Allow a retailer to apply for funding for multiple stores or units.

(2) Identify opportunities for outreach efforts to demonstrate and provide information about low-GWP alternatives in refrigeration and air-conditioning.

(3) Require the professional installation and maintenance of alternative refrigeration and air-conditioning equipment in order to maximize energy efficiency and minimize emissions.

(4) Identify opportunities to increase the recovery, reclamation, or destruction of existing high-GWP refrigerants.

(5) Identify opportunities to offer matching funds to local publicly owned electric and gas utilities that offer their own low-GWP incentive programs.

(6) Comply with federal and state laws regarding the disposal and capture of fluorinated gases.

(7) Determine the most environmentally beneficial outcome for the replaced equipment.

SEC. 3. 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.