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AB-2737 Air pollution: purchase of new drayage and short-haul trucks: incentive programs: lessees: labor standards. (2021-2022)

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Assembly Bill No. 2737

CHAPTER 213

An act to amend Section 39682 of, and to add Section 39693 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor August 29, 2022. Filed with Secretary of State August 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2737, Carrillo. Air pollution: purchase of new drayage and short-haul trucks: incentive programs: lessees: labor standards.

Existing law establishes various incentive programs that are administered or funded by the State Air Resources Board (state board) to provide financial assistance for the purchase of vehicles by individuals and fleet purchasers. Existing law establishes baseline standards, job quality standards, and a structure for eligibility to participate in incentive programs for the purchase of new drayage or short-haul trucks and applies these standards to fleet purchasers of new vehicles for drayage and short-haul trucking services within the state.

This bill would exclude a rental or leasing entity, as defined, from the definition of a fleet purchaser. The bill would require a lessee of a vehicle that was purchased using that incentive program to comply with the standards applicable to fleet purchasers, as specified. The bill would also require a rental or leasing entity that purchases vehicles for use in fleet operations using an incentive program to notify lessees of these vehicles with lease terms of greater than one year that the lessee is required to comply with the requirements applicable to fleet purchasers. The bill would also make a fleet purchaser and rental or leasing entity subject to specified penalties if the state board determines that the fleet purchaser and rental or leasing entity entered into a rental agreement of less than one year for the express purpose of circumventing these requirements.

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

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

SECTION 1. Section 39682 of the Health and Safety Code is amended to read:

39682. For purposes of this chapter, the following definitions apply:

(a) "Administering agency" means an agency administering an incentive program subject to this chapter.

(b) "Applicable law" means California laws within the Labor and Workforce Development Agency's jurisdiction related to the misclassification of employees as independent contractors, including the failure to pay wages, imposing unlawful expenses on employees, failure to provide workers' compensation insurance, and failure to remit payroll taxes as required under the Unemployment Insurance Code.

(c) "Applicable law violation" means a violation that has a final determination, order, judgment, or award issued against a fleet purchaser of vehicles for engaging in illegal conduct related to applicable laws and that remains unabated or unsatisfied following the period during which an appeal may be made.

(d) "Clean air standards" include the standards that the state board sets to reduce air pollution or reduce emissions of greenhouse gases pursuant to this division or Division 25.5 (commencing with Section 38500).

(e) "Fleet operations" include, but are not limited to, port drayage service and short-haul transport of goods. The state board may adopt guidance to interpret the scope of these operations to conform with law.

(f) "Incentive" includes a grant, loan, voucher, or other incentive, regardless of the source of revenue that funds the incentive, for the purchase of new drayage and short-haul trucks, except for revenue subject to provisions that supersede this chapter, including, but not limited to, revenues from settlement agreements, court orders, and consent decrees.

(g) "Short-haul trucking service" means movement of goods by truck within a 150-air-mile radius of the normal working reporting location while in service within the state.

(h) "Rental or leasing entity" means an entity in the trade or business of renting or leasing, as described in subdivision (a) of Section 10103 of the Commercial Code, vehicles to other persons who are renters or lessees for use or operation by renters or lessees. "Rental or leasing entity" does not include an entity whose primary purpose is to rent or lease vehicles to an affiliated motor carrier, including a parent company or subsidiary.

SEC. 2. Section 39693 is added to the Health and Safety Code, to read:

39693. (a) For purposes of this chapter, a fleet purchaser excludes a rental or leasing entity.

(b) A lessee of a vehicle that was purchased using an incentive subject to this chapter shall comply with the requirements applicable to a fleet purchaser pursuant to Section 39690.

(c) A rental or leasing entity that purchases vehicles for use in fleet operations using an incentive program subject to this chapter shall notify lessees of these vehicles with lease terms of greater than one year that the lessee is required to comply with the requirements applicable to fleet purchasers pursuant to Section 39690.

(d) An agreement to lease a vehicle purchased using an incentive subject to this chapter is equivalent to the attestations described in subdivisions (a) and (b) of Section 39690.

(e) A lessee of a vehicle that was purchased using an incentive subject to this chapter shall, for the life of the lease, comply with requirements applicable to a fleet purchaser pursuant to subdivision (c) of Section 39690 and shall provide to the state board all information and disclosures required by that section.

(f) If the state board determines, upon investigation, that a fleet purchaser and rental or leasing entity entered into a rental agreement of less than one year for the express purpose of circumventing this chapter, the fleet purchaser and rental or leasing entity are subject to penalties as described in subdivision (a) of Section 39688.

(g) (1) A lessee of a vehicle that was purchased using an incentive subject to this chapter is in violation of this chapter if, at any time during the term of the operative lease, any of the following apply to the lessee:

(A) The lessee has been in violation of any applicable law.

(B) The lessee appears on the list maintained by the Division of Labor Standards Enforcement pursuant to Section 2810.4 of the Labor Code.

(C) The lessee fails to retain direct control over the manner and means for performance of any individual using or driving the vehicle.

(D) The lessee fails to make accurate and truthful attestations as required under Section 39690 and this section.

(2) A lessee who is in violation of this chapter is subject to a civil penalty in the amount of any incentive received by the rental or leasing entity related to the vehicle leased, prorated to the term of that lease.