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SB-1382 Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption. (2021-2022)

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Senate Bill No. 1382

CHAPTER 375

An act to amend Sections 44124.5, 44125.5, and 44127 of the Health and Safety Code, and to add and repeal Section 6368.2 of the Revenue and Taxation Code, relating to air pollution.

[Approved by Governor September 16, 2022. Filed with Secretary of State September 16, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1382, Gonzalez. Air pollution: Clean Cars 4 All Program: Sales and Use Tax Law: zero emissions vehicle exemption.

(1) Existing law establishes the Clean Cars 4 All Program, which is administered by the State Air Resources Board, to focus on achieving reductions in the emissions of greenhouse gases, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option. Existing law requires the implementing regulations to ensure, among other things, that there is improved coordination, integration, and partnerships with other specified programs that target disadvantaged communities.

Existing law creates the enhanced fleet modernization program to provide compensation for the retirement and replacement of passenger vehicles and light-duty and medium-duty trucks that are high polluters. Existing law requires the state board to annually post on its internet website a performance analysis of the replacement and mobility options component of the programs that includes information regarding how incentive levels can be modified to maximize participation and emissions reductions.

This bill would require the implementing regulations for the Clean Cars 4 All Program to additionally ensure that the state board coordinates with local air districts and local nonprofit and community organizations, as provided, to identify barriers to accessing the Clean Cars 4 All Program and to develop outreach protocols and metrics to assess the success of outreach across the districts. The bill would additionally require that the performance analysis include an assessment identifying populations that are eligible for, but underserved by the Clean Cars 4 All Program, as provided, and would require the assessment to identify barriers preventing the underserved populations from participating in the program and to propose strategies to overcome those barriers. The bill would require the state board to consider specified metrics in allocating funding to districts participating in the Clean Cars 4 All Program. The bill would authorize up to 10% of the moneys allocated by the state board for the Clean Cars 4 All Program to be used for outreach programs in accordance with specified requirements.

(2) Existing state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law provides various exemptions from those taxes.

This bill, on or after January 1, 2023, and until January 1, 2028, would provide an exemption from those taxes with respect to the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle, as defined, sold to a

qualified buyer, as defined. The bill would provide that this exemption does not apply to specified state sales and use taxes from which the proceeds are deposited into the Local Revenue Fund, the Local Revenue Fund 2011, or the Local Public Safety Fund.

Existing law requires a bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for a bill authorizing a new tax credit.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.

(3) This bill would incorporate additional changes to Section 44124.5 of the Health and Safety Code proposed by SB 1230 to be operative only if this bill and SB 1230 are enacted and this bill is enacted last.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The transportation sector is the single largest contributor to emissions of greenhouse gases in the state and is responsible for nearly 80 percent of nitrogen oxide pollution and 90 percent of diesel particulate matter pollution alongside other harmful air pollutants.

(b) Over 28 million Californians, representing approximately 70 percent of the state's population, experienced over 100 days of unhealthy air quality in 2020.

(c) Air pollution increases the risk of premature death, asthma attacks, cancer, and other adverse health impacts, and causes an estimated 34,000 deaths every year in the state.

(d) Air pollution associated with vehicles disproportionately impacts communities of color. A study from the Union of Concerned Scientists found that, on average, African American, Latino, and Asian Californians are exposed to dangerous particulate matter exhaust from cars and trucks at levels 21 to 43 percent, inclusive, higher than for White Californians.

(e) Older vehicles contribute significantly more to particulate matter air pollution compared to newer vehicles. In 2021, 101,336 vehicles (9.86 percent of all vehicles tested) failed a smog test. The smog test failure rate for older cars (model year 1976–2000) is 14.04 percent, compared to 2.32 percent for newer cars (model year 2001–21).

(f) As a result, replacing older vehicles with zero-emission or hybrid vehicles would result in the most significant emission-reductions for passenger vehicles in the transition to zero-emission vehicles.

(g) The state has set ambitious targets for zero-emission vehicle deployment, including Executive Order No. B-48-18, which sets a goal of getting to 5,000,000 ZEVs (zero-emission vehicles) in California by 2030, and Executive Order No. N-79-20, which sets a goal of getting to 100 percent ZEV sales for light-duty vehicles by 2035.

(h) Currently, zero-emission vehicles are primarily owned by wealthy, White homeowners. In California, between 2011 and 2015, households earning less than \$100,000 per year represented 72 percent of new and used gasoline vehicle purchases compared to 44 percent of new and used electric vehicle purchases. In contrast, Black and Latino car buyers made up 41 percent of new and used gasoline vehicle purchases, but only 12 percent of new and used electric vehicle purchases.

(i) Furthermore, ZEVs are even less likely to be owned by households in emissions-overburdened communities in the greatest need of emission-reductions; as of 2019, fewer than 6 percent of ZEVs in the state are registered in the upper 80th percentile of CalEnviroScreen score census tracts.

(j) The Clean Cars 4 All Program is an equity-based program that both increases access to, and adoption of, zero-emission and hybrid vehicles in low-income and disadvantaged communities, and reduces polluting emissions that disproportionately impact low-income, Black, and Brown Californians.

SEC. 2. Section 44124.5 of the Health and Safety Code is amended to read:

44124.5. (a) The Clean Cars 4 All Program is hereby established and is to be administered by the state board to focus on achieving reductions in the emissions of greenhouse gases, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option.

(b) Beginning in the 2018–19 fiscal year, and every fiscal year thereafter, the state board shall set specific, measurable goals for the replacement of passenger vehicles and light- and medium-duty trucks that are high polluters.

(c) The state board shall take steps to meet the goals set forth pursuant to subdivision (b). The steps shall include, but need not be limited to, updating the guidelines for Clean Cars 4 All no later than January 1, 2019.

(d) The regulation implementing this section shall ensure all of the following:

(1) Where applicable, there is improved coordination, integration, and partnerships with other programs that target disadvantaged communities and receive moneys from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code.

(2) The state board shall coordinate with districts and local nonprofit and community organizations, prioritizing those organizations that have a strong and ongoing local presence in areas within the district, to identify barriers to accessing Clean Cars 4 All and to develop outreach protocols and metrics to assess the success of outreach across the districts.

(3) The replacement or a mobility option is consistent with paragraph (6) of subdivision (d) of Section 44125.

(4) Provisions enhance the prescreening of applicants to Clean Cars 4 All, if determined by the state board to be appropriate.

SEC. 2.5. Section 44124.5 of the Health and Safety Code is amended to read:

44124.5. (a) The Clean Cars 4 All Program is hereby established and is to be administered by the state board to focus on achieving reductions in the emissions of greenhouse gases, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option.

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(2) The state board shall coordinate with districts and local nonprofit and community organizations, prioritizing those organizations that have a strong and ongoing local presence in areas within the district, to identify barriers to accessing Clean Cars 4 All and to develop outreach protocols and metrics to assess the success of outreach across the districts.

(3) The replacement or a mobility option is consistent with paragraph (6) of subdivision (d) of Section 44125.

(4) Provisions enhance the prescreening of applicants to Clean Cars 4 All, if determined by the state board to be appropriate.

(5) By January 1, 2025, all hybrid vehicles purchased using an incentive are capable of plug-in charging.

(e) The state board shall ensure that incentives awarded under the Clean Cars 4 All Program are awarded in accordance with Section 44258.7.

SEC. 3. Section 44125.5 of the Health and Safety Code is amended to read:

44125.5. Beginning no later than July 1, 2019, and every year thereafter, the state board, for both the program and Clean Cars 4 All, shall collect and post on its internet website all of the following:

(a) The performance of both programs relative to the goals set pursuant to subdivision (b) of Section 44124.5 and subdivision (b) of Section 44125.

(b) An accounting that includes, but need not be limited to, moneys allocated to the program and Clean Cars 4 All and the expenditures of the program and Clean Cars 4 All by region.

(c) A performance analysis broken down by district of the replacement and mobility options component of the program and Clean Cars 4 All to identify areas to be emphasized when setting future goals or updating the guidelines for the program and Clean Cars 4 All. The analysis shall include all of the following:

(1) Whether a district implementing the replacement and mobility options component of the program or Clean Cars 4 All has a backlog or a waiting list for applicants and recommendations from the district or state board on how to eliminate the backlog or waiting list.

(2) An evaluation of the funding for targeted outreach in low-income or disadvantaged communities, including whether the funding should be enhanced or modified to reach the goals set pursuant to subdivision (b) of Section 44124.5 and subdivision (b) of Section 44125.

(3) How incentive levels and eligibility criteria can be modified to maximize both participation and emissions reductions.

(4) (A) An assessment identifying populations that are eligible for, but underserved by Clean Cars 4 All. In identifying underserved populations pursuant to this paragraph, the assessment shall, at a minimum, evaluate the participation of households in census tracts shown to be the most impacted in each region, households making less than 225 percent of the federal poverty level, and households that are primarily non-English speaking.

(B) The assessment shall identify barriers preventing the underserved populations identified pursuant to subparagraph (A) from participating in Clean Cars 4 All and propose strategies to overcome those barriers.

SEC. 4. Section 44127 of the Health and Safety Code is amended to read:

44127. (a) Upon appropriation by the Legislature, the state board may allocate moneys for the expansion of the replacement component or mobility option component of the program or Clean Cars 4 All from any of the following:

(1) The Enhanced Fleet Modernization Subaccount, created pursuant to Section 44126.

(2) The High Polluter Repair or Removal Account, created pursuant to Section 44091.

(3) The Vehicle Inspection and Repair Fund, created pursuant to Section 9886 of the Business and Professions Code.

(b) Upon appropriation by the Legislature, the state board may allocate moneys consistent with law for Clean Cars 4 All from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code.

(c) (1) In allocating funding under Clean Cars 4 All to districts participating in the program, the state board shall consider, at a minimum, all of the following metrics:

(A) Number of vouchers deployed.

(B) Proportion of applications that have been started and resulted in completed replacement transactions or mobility vouchers.

(C) Demand for vouchers.

(D) Proportional investment to underserved populations identified pursuant to paragraph (4) of subdivision (c) of Section 44125.5.

(E) Population in eligible Clean Cars 4 All Zip Codes.

(2) Beginning January 1, 2023, and every year thereafter, the state board shall publish, as part of its funding plan, a report identifying how each criterion was used to allocate funding to districts.

(d) (1) Up to 10 percent of the moneys allocated by the state board for Clean Cars 4 All may be used for outreach programs in accordance with both of the following requirements:

(A) Before a district allocates more than 5 percent of the moneys received from the state board for Clean Cars 4 All in a fiscal year for outreach, the district shall submit a description to the state board of the outreach efforts that will be funded with any money above 5 percent of the moneys allocated by the state board and a justification of how the additional funding for outreach will support deployment of Clean Cars 4 All to households in census tracts shown to be the most impacted in each region, households making less than 225 percent of the federal poverty level, households that are primarily non-

English speaking, and other underserved populations identified pursuant to paragraph (4) of subdivision (c) of Section 44125.5.

(B) A district that allocates more than 5 percent of the moneys received from the state board for Clean Cars 4 All in a fiscal year for outreach shall submit a report to the state board on the outcome of this expenditure, including a description of outreach efforts that were funded or augmented with any money above 5 percent of the moneys allocated by the state board for Clean Cars 4 All and how that funding supported deployment of Clean Cars 4 All to households in census tracts shown to be the most impacted in each region, households making less than 225 percent of the federal poverty level, households that are primarily non-English speaking, and other underserved populations identified pursuant to paragraph (4) of subdivision (c) of Section 44125.5.

(2) Documents and information submitted by a district to the state board pursuant to this subdivision shall be for informational purposes only.

SEC. 5. Section 6368.2 is added to the Revenue and Taxation Code, to read:

6368.2. (a) On or after January 1, 2023, there are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle sold to a qualified buyer.

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

(1) "Qualified motor vehicle" means a vehicle for which a grant letter is awarded to the qualified buyer under the Clean Cars 4 All Program established by Section 44124.5 of the Health and Safety Code.

(2) "Qualified buyer" means an individual to whom an award letter or other approval documentation was issued by any entity implementing the Clean Cars 4 All Program indicating that their application was approved for a grant under the Clean Cars 4 All Program.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(d) For the purposes of complying with Section 41, the Legislature finds and declares all of the following:

(1) The specific goal, purpose, and objective that the exemption will achieve is to increase the number of low-income California drivers participating in the Clean Cars 4 All Program and to encourage those drivers to scrap their older, high-polluting car and replace it with a zero- or near-zero emission vehicle.

(2) Detailed performance indicators measure whether the exemption meets the goal, purpose, and objective described in paragraph (1) are the following:

(A) The number of taxpayers exempting the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle sold to a qualified buyer under the Clean Cars 4 All Program pursuant to this section.

(B) The total dollar amount of moneys exempted under this section.

(C) The total number of qualified buyers in each tax bracket for whom a taxpayer claimed an exemption under this section.

(3) On or before March 1, 2024, and annually thereafter, the California Department of Tax and Fee Administration shall analyze the performance indicators in paragraph (2) and shall report its findings, in compliance with Section 9795 of the Government Code, to the Legislature.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 44124.5 of the Health and Safety Code proposed by both this bill and Senate Bill 1230. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 44124.5 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 1230, in which case Section 2 of this bill shall not become operative.