

BILL: AB 302 (Gipson, D-Carson)
Amended April 17, 2017
Amended March 21, 2017
Introduced February 6, 2017

SUBJECT: AB 302 would authorize the South Coast Air Quality Management District to set purchase requirements for zero- and near-zero emission technology within public fleets

STATUS: Pending in the Assembly Transportation Committee

SUMMARY AS OF MAY 1, 2017:

AB 302 (Gipson, D-Carson) authorizes the Governing Board of the South Coast Air Quality Management District (SCAQMD) to adopt rules or regulations that require operators of public and commercial fleets, consisting of one or more vehicles operating within the south coast region, to purchase zero-emission or near-zero emission vehicles and require that these vehicles be operated to the maximum extent feasible in the south coast region. "Zero-emission and near-zero emission" within the context of this bill is defined to mean a vehicle, fuel, and related technology that substantially reduces emissions of oxides of nitrogen (NOx) by 90 percent or greater when compared with engines certified at the 2010 model year baseline emission standard for NOx established by the California Air Resources Board (ARB). This technology may include enabling technologies that provide a pathway to emission reductions, advanced or alternative fuel engines for long-haul trucks, and hybrid or alternative fuel technologies or trucks and off-road equipment.

AB 302 removes the requirement that the adoption of this technology take place only when a public entity is adding or replacing vehicles in an existing fleet or purchasing vehicles to a new fleet. Thus, SCAQMD could require the turnover prior to a vehicle reaching its useful life. AB 302 exempts certain classes of vehicles from these requirements including vehicles used by local law enforcement agencies, fire departments or paramedics, until the SCAQMD determines that the new technology will not impair the emergency response capabilities of those vehicles.

In adopting the rules and regulations under this authority, SCAQMD is to consult with various entities including the California Department of Transportation, California Highway Patrol and the transportation commissions within their region, such as the Orange County Transportation Authority (OCTA).

EFFECTS ON ORANGE COUNTY:

The provisions of AB 302 would apply to OCTA as a public fleet operator within SCAQMD's jurisdiction, impacting each of OCTA's transit buses and related vehicles. OCTA currently operates a transit bus fleet composed of almost entirely of natural gas fueled vehicles. In addition, OCTA has embarked on numerous efforts to further reduce emissions including through the integration of low-NOx engines, use of renewable natural gas, and the testing of one zero-emission hydrogen fuel cell bus. Soon, OCTA will also

integrate 12 additional zero-emission hydrogen fuel cell buses, and related fueling infrastructure to further expand the technology.

While AB 302's definition of "zero-emission and near-zero emission" is expansive enough to include the near low-NOx engines that OCTA is integrating within its fleet, the language is phrased in a way that allows the SCAQMD to adopt even more stringent standards, which could force a purchase requirement of zero-emission technologies on transit agencies such as OCTA. There is no requirement that a technology or economic assessment take place before implementing such a requirement under this framework, potentially forcing the integration of new technology without it being proven for use and without consideration of the impacts the technology and costs may have on public services. Furthermore, by deleting the language that the turnover only occur when a public fleet is adding or replacing vehicles, SCAQMD could require OCTA to replace their vehicles with new technology before the vehicles reach their useful life. In order to use federal transit funds to replace buses, the bus must meet a 12-year useful life requirement. Because AB 302 would allow SCAQMD to require turnover prior to that time period, this could jeopardize the ability for OCTA to use federal funds for transit bus purchases.

Transit bus fleet technology requirements were first put in place in 2000 by the ARB. In order to meet the NOx and particulate matter requirements by the ARB's transit fleet rule, the SCAQMD required transit agencies within its jurisdiction to adopt the alternative fuel pathway to compliance. This requirement was held up through litigation, and led to transit agencies throughout the south coast basin, including OCTA to replace diesel buses with alternative fuel powered buses. In Northern California, agencies opted to go through the diesel pathway, which required the implementation of pilot programs to test zero-emission buses. The data from these pilot programs was to be used to inform the implementation of a 15 percent zero-emission bus purchase requirement that the ARB was to start enforcing in 2012 in regions that opted the alternative fuel pathway. Recognizing the cost and technology limitations of existing zero-emission technologies, in 2009 the ARB delayed a zero-emission bus purchase requirement to allow more time to monitor and assess demonstrations of the technology. Since 2009, the California Transit Association and its member agencies, including OCTA, have worked closely with the ARB to explore alternatives to the purchase requirement that still allow for needed emission reductions and integration of new technology. Currently, a performance based measure is under discussion which allows transit agencies discretion on how to reduce emissions, while also continuing to explore newer zero-emission technologies and related incentives.

Instead of allowing discussions to continue with the ARB, AB 302 inserts SCAQMD into the process, potentially allowing SCAQMD to adopt requirements even more stringent than those agreed to with the ARB. This is despite the significant cost implications the technology may have on transit agencies. A conventional compressed natural gas (CNG) bus costs about \$600,000. Battery electric and hydrogen fuel-cell buses cost between \$900,000 and \$1.5 million, plus the cost of fueling/charging infrastructure. Furthermore, many of the zero-emission buses are unable to meet the range, reliability and maintenance needs of existing fleets. These issues will have a direct impact on OCTA's

ability to provide transit services. Additional costs will also decrease OCTA's available funding to operate its current service, especially as OCTA observes continued fluctuations in existing transit funding streams such as the local transportation fund.

Instead of creating a mandate to purchase new technology, public fleet operators and SCAQMD should work collaboratively to continue to test new technologies on a pilot program basis, study further the life-cycle costs and emissions portfolio of new technologies, and explore financial and other incentives to adopt new technology. In addition, transit agencies and other public agencies can continue to work with the ARB and SCAQMD to explore the best uses for new technology.

An oppose position is consistent with the OCTA 2017-18 State Legislative Platform's principles to "Support efforts to ensure the availability of proven technology and adequate funding prior to the implementation of zero emission bus regulations" and to "Oppose efforts to create regulations or strengthen existing standards that are not currently economically practicable or technologically feasible."

OCTA POSITION:

Staff recommends: OPPOSE

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 302

Introduced by Assembly Member Gipson

February 6, 2017

An act to ~~add Section 40006 to amend Section 40447.5 of the Health and Safety Code, and to add and repeal Section 9108 of the Vehicle Code,~~ relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 302, as amended, Gipson. ~~Vehicular air pollution: incentives. South Coast Air Quality Management District: fleets.~~

Existing law authorizes the governing board of the South Coast Air Quality Management District to adopt rules and regulations that require specified operators of public and commercial fleet vehicles consisting of 15 or more vehicles, when adding vehicles or replacing vehicles in an existing fleet or forming a new fleet, to purchase vehicles that are capable of operating on methanol or other equivalently clean-burning alternative fuel and that require these vehicles to be operated, to the maximum extent feasible, on the alternative fuel when operating in the south coast district.

This bill instead would authorize the governing board of the south coast district to adopt rules and regulations that require specified operators of public and commercial fleet vehicles consisting of 1 or more vehicles to purchase zero-emission and near-zero-emission vehicles, as defined, and that require those zero-emission and

near-zero-emission vehicles to be operated, to the maximum extent feasible, in the south coast district.

This bill would make legislative findings and declarations as to the necessity of a special statute for the south coast district.

~~(1) Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the State Air Resources Board. The program authorizes the state board to provide grants to offset the incremental cost of eligible projects that reduce emissions from covered vehicular sources. The program requires the state board and participating air pollution control and air quality management districts to institute an outreach program to inform fleet owners, among others, of the availability of grants under the program and of the requirements and objectives of the grant program.~~

~~This bill would require air districts to notify in writing the operators of public and commercial motor vehicle fleets of incentive programs available for motor vehicle fleets and to post on the districts' Internet Web sites information on incentive programs available for motor vehicle fleets. By adding to the duties of air districts, this bill would impose a state-mandated local program.~~

~~(2) Existing law exempts certain vehicles owned by the United States, any state or its political subdivision, or any municipality in this state from fees specified in the Vehicle Code, except for fees for duplicate plates, certificates, or cards.~~

~~This bill, until January 1, 2031, would additionally exempt from those specified fees a medium-duty or heavy-duty vehicle that the state board has certified as meeting or exceeding a specified emission standard.~~

~~(3) 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~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 40447.5 of the Health and Safety Code
- 2 is amended to read:
- 3 40447.5. ~~Notwithstanding~~ (a) For purposes of this section,
- 4 “zero-emission and near-zero-emission” means a vehicle, fuel,

1 *and related technology that substantially reduces emissions of*
2 *oxides of nitrogen by 90 percent or greater when compared with*
3 *engines certified at the 2010 model year baseline emission standard*
4 *for oxides of nitrogen, as established by the state board.*
5 *“Zero-emission and near-zero-emission” may include, but need*
6 *not be limited to, zero-emission technology, enabling technologies*
7 *that provide a pathway to emissions reductions, advanced or*
8 *alternative fuel engines for long-haul trucks, and hybrid or*
9 *alternative fuel technologies for trucks and offroad equipment.*

10 *(b) Notwithstanding any other provision of law, the south coast*
11 *district board may adopt rules or regulations that do all of the*
12 *following:*

13 *(a)*

14 *(1) Require operators of public and commercial fleet vehicles,*
15 *consisting of ~~15~~ one or more vehicles under a single owner or*
16 *lessee and operating substantially in the south coast district, when*
17 *adding vehicles to or replacing vehicles in an existing fleet or*
18 *purchasing vehicles to form a new fleet, to purchase vehicles which*
19 *are capable of operating on methanol or other equivalently clean*
20 *burning alternative fuel and to require district to purchase*
21 *zero-emission or near-zero-emission vehicles and*

22 *require that these vehicles be operated, to the maximum extent*
23 *feasible, on the alternative fuel when operating in the south coast*
24 *district. Notwithstanding Section 39021, as used in this subdivision,*
25 *the term “commercial fleet vehicles” is not limited to vehicles that*
26 *are operated for hire, compensation, or profit. ~~No~~ A rule or*
27 *regulation adopted pursuant to this paragraph shall not apply to*
28 *emergency vehicles operated by local law enforcement agencies,*
29 *fire departments, agencies or fire departments or to paramedic and*
30 *rescue vehicles until the south coast district board finds and*
31 *determines that the alternative fuel is available at sufficient*
32 *locations so that zero-emission or near-zero-emission vehicles will*
33 *not impair the emergency response capabilities of those vehicles*
34 *is not impaired. vehicles.*

35 *(b)*

36 *(2) Encourage and facilitate ridesharing for commuter trips into,*
37 *out of, and within the south coast district.*

38 *(c)*

39 *(3) Prohibit or restrict the operation of heavy-duty trucks during*
40 *the hours of the heaviest commuter traffic on freeways and other*

1 ~~high-traffic-volume~~ *high-traffic-volume* highways. In adopting
2 ~~rules and~~ regulations pursuant to this paragraph, the south coast
3 district shall consult with the Department of ~~Transportation and~~
4 ~~Transportation~~, the Department of the California Highway Patrol
5 ~~Patrol~~, and the transportation commission of each county in the
6 south coast district. ~~No A rule or regulation adopted pursuant to~~
7 ~~this paragraph shall, however, paragraph, however, shall not~~
8 prohibit or restrict the operation of any heavy-duty truck engaged
9 in ~~the~~ hauling of solid or hazardous waste or a toxic substance if
10 that truck is required to be operated at certain times of ~~the~~ day
11 pursuant to an ordinance adopted for the protection of public health
12 or safety by a city or county or any heavy-duty truck required to
13 be operated at certain times of the day pursuant Section 25633 of
14 the Business and Professions Code.

15 *SEC. 2. The Legislature finds and declares that a special statute*
16 *is necessary and that a general statute cannot be made applicable*
17 *within the meaning of Section 16 of Article IV of the California*
18 *Constitution because of the unique needs of the South Coast Air*
19 *Basin, which is designated as federal extreme nonattainment for*
20 *ozone.*

21 ~~SECTION 1. Section 40006 is added to the Health and Safety~~
22 ~~Code, to read:~~

23 ~~40006. Districts shall do both of the following:~~

24 (a) ~~Notify in writing the operators of public and commercial~~
25 ~~motor vehicle fleets of incentive programs available for motor~~
26 ~~vehicle fleets.~~

27 (b) ~~Post in a clear and concise manner on their Internet Web~~
28 ~~sites information on incentive programs available for motor vehicle~~
29 ~~fleets.~~

30 ~~SEC. 2. Section 9108 is added to the Vehicle Code, to read:~~

31 ~~9108. (a) Fees specified in this code, except fees for duplicate~~
32 ~~plates, certificates, or cards, are not required to be paid for a~~
33 ~~medium-duty or heavy-duty vehicle that the State Air Resources~~
34 ~~Board has certified as meeting or exceeding the optional 0.02~~
35 ~~grams per brake horsepower hour emission standard.~~

36 (b) ~~This section shall remain in effect only until January 1, 2031,~~
37 ~~and as of that date is repealed.~~

38 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
39 ~~Section 6 of Article XIII B of the California Constitution because~~
40 ~~a local agency or school district has the authority to levy service~~

1 ~~charges, fees, or assessments sufficient to pay for the program or~~
2 ~~level of service mandated by this act, within the meaning of Section~~
3 ~~17556 of the Government Code.~~

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