

AMENDED IN ASSEMBLY APRIL 5, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 905

**Introduced by Assembly Member Quirk
(Coauthors: Assembly Members Bauer-Kahan, Berman, Flora, and
Grayson)**

February 17, 2021

An act to amend Sections 41950 and 41962 of, and to add Section 39618.5 to, the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 905, as amended, Quirk. Mobile fueling on-demand tank vehicles: performance standards.

(1) Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution and air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law makes a violation of a rule or regulation of the state board a misdemeanor.

This bill would require the state board to regulate a mobile fueling on-demand tank vehicle, as defined, as a mobile source, and, contingent upon an appropriation by the Legislature for this purpose, to adopt regulations on or before a specified date to control emissions attributable to mobile fueling on-demand tank vehicles and to certify equipment for those vehicles, as provided. The bill would authorize the state board to allow the use of onboard refueling vapor recovery (ORVR) systems to achieve or maintain the standards and procedures adopted in those

regulations for the control of gasoline vapors resulting from the motor vehicle fueling operations of a mobile fueling on-demand tank vehicle. *As part of those regulations, the bill would require the state board, in consultation with air pollution control and air quality management districts, to adopt regulations to govern the motor vehicle fueling operations of a mobile fueling on-demand tank vehicle to ensure the protection of public health and safety and the environment. The bill would authorize a district to enter into a memorandum of understanding to enforce the regulations applicable to the motor vehicle fueling operations of a mobile fueling on-demand tank vehicle.* Because a violation of those regulations would be a crime, the bill would impose a state-mandated local program.

The bill would prohibit a person from operating, or allowing the operation of, a mobile fueling on-demand tank vehicle, unless it is equipped with a vapor recovery system that is certified by the state board, or that meets permeation and spillage performance standards determined by the state board, and is installed, operated, and maintained in compliance with the state board's requirements for certification.

The bill would require the state board to assess a fee on mobile fueling on-demand tank vehicles to recover the reasonable costs of implementing these provisions, and would require the fee to be deposited in the Air Pollution Control Fund and to be available for expenditure upon appropriation by the Legislature. The bill would require that the fee be adjusted annually based on the California Consumer Price Index as compiled and reported by the Department of Industrial Relations. *The bill would require the state board to transfer, upon appropriation by the Legislature, the amount of revenues generated by these fees necessary to reimburse a district for the costs of enforcing any regulation pursuant to a memorandum of understanding described above.*

(2) Existing law prohibits a person from installing or maintaining a stationary gasoline tank with a capacity of 250 gallons or more that is not equipped for loading through a permanent submerged fill pipe, unless the tank is a pressure tank, as specified, or is equipped with a vapor recovery system, as specified, or with a floating roof, as specified, or unless the tank is equipped with other apparatus of equal efficiency that has been approved by the air pollution control officer in whose district the tank is located.

This bill would allow a person to install or maintain a mobile fueling on-demand tank vehicle, or a system on that vehicle, that is certified

by the state board and meets certain requirements and that is not equipped for loading through a permanent submerged fill pipe, even if the tank is a pressure tank, as specified, or is not equipped with a vapor recovery system, as specified, or does not have a floating roof, as specified, or if the tank is not equipped with other apparatus of equal efficiency that has been approved by the air pollution control officer in whose district the tank is located.

The bill would require that a mobile fueling on-demand tank vehicle be loaded exclusively through bottom loading equipment certified by the state board, unless the vehicle includes a vapor recovery system that is certified by the state board.

(3) Existing law requires the state board to adopt performance standards to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid spillage when used in a proper manner. Existing law requires the state board to adopt test procedures to determine the compliance with vapor emission standards of vapor recovery systems of cargo tanks on tank vehicles used to transport gasoline, as provided. Existing law prohibits an air district from adopting test procedures for, or requiring certification of, cargo tank vapor recovery ~~system~~ *systems* and from imposing fees on, or requiring a permit of, tank vehicles with vapor recovery systems, but provides that an air district is not prohibited from inspecting and testing cargo tank vapor recovery systems on tank vehicles for specified purposes.

This bill would provide that an air district is additionally not prohibited from inspecting and testing emissions control systems on mobile fueling on-demand tank vehicles for those same purposes.

(4) 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.
State-mandated local program: yes.

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

1 SECTION 1. Section 39618.5 is added to the Health and Safety
2 Code, to read:

1 39618.5. (a) A mobile fueling on-demand tank ~~vehicle, as~~
2 ~~defined in paragraph (2) of subdivision (e) of Section 41950;~~
3 ~~vehicle~~ shall be regulated by the state board as a mobile source.
4 Contingent upon an appropriation by the Legislature for this
5 purpose, the state board shall adopt regulations on or before
6 January 1 of the year following the date on which the appropriation
7 is provided to control emissions attributable to mobile fueling
8 on-demand tank vehicles and to certify equipment for those
9 vehicles pursuant to this section and Section 41962.

10 (b) The state board may authorize the use of onboard refueling
11 vapor recovery (ORVR) systems to achieve or maintain the
12 standards and procedures adopted in regulations pursuant to this
13 section for the control of gasoline vapors resulting from the motor
14 vehicle fueling operations of a mobile fueling on-demand tank
15 vehicle.

16 (c) *(1) As part of the regulations adopted pursuant to*
17 *subdivision (a), the state board shall, in consultation with districts,*
18 *adopt regulations to govern the motor vehicle fueling operations*
19 *of a mobile fueling on-demand tank vehicle to ensure the protection*
20 *of public health and safety and the environment. These regulations*
21 *may include, but are not limited to, requirements governing the*
22 *locations where a mobile fueling on-demand tank vehicle may*
23 *perform motor vehicle fueling operations and requirements*
24 *governing compliance with health risk assessment, sensitive*
25 *receptor, and emission control standards.*

26 *(2) A district may enter into a memorandum of understanding*
27 *with the state board for the purpose of enforcing any regulation*
28 *adopted pursuant to this section that is applicable to the motor*
29 *vehicle fueling operations of a mobile fueling on-demand tank*
30 *vehicle.*

31 ~~(e)~~

32 (d) (1) The state board shall assess a fee on mobile fueling
33 on-demand tank vehicles to recover the reasonable costs of
34 implementing this section and paragraph (2) of subdivision (g) of
35 Section 41962.

36 (2) The fee imposed pursuant to paragraph (1) shall be adjusted
37 annually based on the California Consumer Price Index as compiled
38 and reported by the Department of Industrial Relations.

39 (3) All fees collected by the state board pursuant to this
40 subdivision shall be deposited in the Air Pollution Control Fund

1 and shall be available for expenditure upon appropriation by the
2 Legislature.

3 (4) *The state board shall transfer, upon appropriation by the*
4 *Legislature, the amount of revenues generated from the fees*
5 *described in paragraph (3) necessary to reimburse a district for*
6 *the costs of enforcing any regulation pursuant to a memorandum*
7 *of understanding described in subdivision (c).*

8 (e) *For purposes of this section, “mobile fueling on-demand*
9 *tank vehicle” has the same meaning as defined in paragraph (2)*
10 *of subdivision (c) of Section 41950.*

11 SEC. 2. Section 41950 of the Health and Safety Code is
12 amended to read:

13 41950. (a) Except as provided in subdivision (b), a person
14 shall not install or maintain a stationary gasoline tank with a
15 capacity of 250 gallons or more that is not equipped for loading
16 through a permanent submerged fill pipe, unless the tank is a
17 pressure tank as described in Section 41951, or is equipped with
18 a vapor recovery system as described in Section 41952 or with a
19 floating roof as described in Section 41953, or unless the tank is
20 equipped with other apparatus of equal efficiency that has been
21 approved by the air pollution control officer in whose district the
22 tank is located.

23 (b) Subdivision (a) shall not apply to any of the following:

24 (1) A stationary tank installed before December 31, 1970.

25 (2) A stationary tank that is used primarily for the fueling of
26 implements of husbandry.

27 (3) (A) A mobile fueling on-demand tank vehicle, or system
28 on that vehicle, that is certified by the state board and meets the
29 applicable requirements in this paragraph and Sections 39618.5,
30 41954, and 41962.

31 (B) A mobile fueling on-demand tank vehicle shall be loaded
32 exclusively through bottom loading equipment certified by the
33 state board, and shall not be loaded in any other manner, including,
34 but not limited to, top loading or splash loading, unless the vehicle
35 includes a vapor recovery system that is certified by the state board.

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

37 (1) “Gasoline” means any petroleum distillate having a Reid
38 vapor pressure of four pounds or greater.

39 (2) (A) “Mobile fueling on-demand tank vehicle” means a tank
40 truck or trailer, as defined by the state board in its standards and

1 procedures adopted pursuant to subdivision (a) of Section 39618.5,
2 that is equipped with an onboard cargo tank system designed to
3 load, transport, and transfer gasoline directly from the onboard
4 cargo tank into a motor vehicle fuel tank.

5 (B) The state board shall determine the tank capacity of a mobile
6 fueling on-demand tank vehicle that will be subject to the
7 regulations adopted pursuant to subdivision (a) of Section 39618.5.

8 (d) For purposes of this section, “submerged fill pipe” means a
9 fill pipe that has its discharge opening entirely submerged when
10 the liquid level is six inches above the bottom of the tank.
11 “Submerged fill pipe,” when applied to a tank that is loaded from
12 the side, means a fill pipe that has its discharge opening entirely
13 submerged when the liquid level is 18 inches above the bottom of
14 the tank.

15 SEC. 3. Section 41962 of the Health and Safety Code is
16 amended to read:

17 41962. (a) Notwithstanding Section 34002 of the Vehicle
18 Code, the state board shall adopt test procedures to determine the
19 compliance of vapor recovery systems of cargo tanks on tank
20 vehicles used to transport gasoline with vapor emission standards
21 that are reasonable and necessary to achieve or maintain any
22 applicable ambient air quality standard. The performance standards
23 and test procedures adopted by the state board shall be consistent
24 with the regulations adopted by the Commissioner of the California
25 Highway Patrol and the State Fire Marshal pursuant to Division
26 14.7 (commencing with Section 34000) of the Vehicle Code.

27 (b) The state board may test, or contract for testing, the vapor
28 recovery system of a cargo tank of a tank vehicle used to transport
29 gasoline. The state board shall certify the cargo tank vapor recovery
30 system upon its determination that the system, if properly installed
31 and maintained, will meet the requirements of subdivision (a). The
32 state board shall enumerate the specifications used for issuing the
33 certification. After a cargo tank vapor recovery system has been
34 certified, if circumstances beyond the control of the state board
35 cause the system to no longer meet the required specifications, the
36 certification may be revoked or modified.

37 (c) Upon verification of certification pursuant to subdivision
38 (b), which shall be done annually, the state board shall send a
39 verified copy of the certification to the registered owner of the
40 tank vehicle, which copy shall be retained in the tank vehicle as

1 evidence of certification of its vapor recovery system. For each
2 system certified, the state board shall issue a nontransferable and
3 nonremovable decal to be placed on the cargo tank where the decal
4 can be readily seen.

5 (d) With respect to a tank vehicle operated within a district, the
6 state board, upon request of the district, shall send to the district,
7 free of charge, a certified copy of the certification and test results
8 of a cargo tank vapor recovery system on the tank vehicle.

9 (e) The state board may contract with the Department of the
10 California Highway Patrol to carry out the responsibilities imposed
11 by subdivisions (b), (c), and (d).

12 (f) The state board shall charge a reasonable fee for certification,
13 not to exceed its estimated costs of certification. Payment of the
14 fee shall be a condition of certification. The fees may be collected
15 by the Department of the California Highway Patrol and deposited
16 in the Motor Vehicle Account in the State Transportation Fund.
17 The Department of the California Highway Patrol shall transfer
18 to the Air Pollution Control Fund the amount of those fees
19 necessary to reimburse the state board for the costs of administering
20 the certification program.

21 (g) (1) A person shall not operate, or allow the operation of, a
22 tank vehicle transporting gasoline that is required to have a vapor
23 recovery system, unless the system thereon has been certified by
24 the state board and is installed and maintained in compliance with
25 the state board's requirements for certification. Tank vehicles used
26 exclusively to service gasoline storage tanks that are not required
27 to have gasoline vapor controls are exempt from the certification
28 requirement.

29 (2) A person shall not operate, or allow the operation of, a
30 mobile fueling on-demand tank vehicle, unless it is equipped with
31 a vapor recovery system that is certified by the state board, or that
32 meets permeation and spillage performance standards determined
33 by the state board, and is installed, operated, and maintained in
34 compliance with the state board's requirements for certification
35 pursuant to this section and Sections 39618.5 and 41954.

36 (h) Performance standards of a district for cargo tank vapor
37 recovery systems on tank vehicles used to transport gasoline shall
38 be identical to those adopted by the state board and a district shall
39 not adopt test procedures for, or require certification of, cargo tank
40 vapor recovery systems. A district shall not impose any fees on,

1 or require any permit of, tank vehicles with vapor recovery systems.
2 However, this section does not prohibit a district from inspecting
3 and testing cargo tank vapor recovery systems on tank vehicles,
4 or emissions control systems on mobile fueling on-demand tank
5 vehicles, for the purposes of enforcing this section or any rule and
6 regulation adopted pursuant to this section or Section 39618.5 that
7 is applicable to those systems and, as applicable, to the loading
8 and unloading of cargo tanks on tank vehicles.

9 (i) The Legislature hereby declares that the purposes of this
10 section regarding cargo tank vapor recovery systems on tank
11 vehicles, including, but not limited to, a system or system
12 component of a mobile fueling on-demand tank vehicle, as defined
13 in paragraph (2) of subdivision (c) of Section 41950, are (1) to
14 remove from the districts the authority to certify, except as
15 specified in subdivision (b), those systems and to charge fees for
16 certification, and (2) to grant authority to the state board to have
17 the primary responsibility to assure that those systems are operated
18 in compliance with its standards and procedures adopted pursuant
19 to subdivision (a) or Section 39618.5.

20 SEC. 4. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.