

AMENDED IN ASSEMBLY MARCH 17, 2025

CALIFORNIA LEGISLATURE—2025—26 REGULAR SESSION

ASSEMBLY BILL

No. 1207

Introduced by Assembly Member Irwin

February 21, 2025

An act to amend Section 38562 of the Health and Safety Code, relating to climate change.

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, as amended, Irwin. Climate change: market-based compliance ~~mechanism~~. *mechanism: price ceiling.*

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases and requires the state board to ensure that statewide greenhouse gas emissions are reduced to at least 40% below the 1990 level by 2030. The act, until January 1, 2031, authorizes the state board to adopt a regulation establishing a system of market-based declining aggregate emissions limits for sources or categories of sources that emit greenhouse gases (market-based compliance mechanism) that meets certain requirements. Pursuant to this authority, the state board adopted the California Greenhouse Gas Cap-and-Trade Program. Existing law requires the state board, in adopting the regulation to, among other things, establish a price ceiling for emission allowances sold by the state board. Existing law requires the state board, in establishing the price ceiling, to consider specified factors, including the full social cost associated with emitting a metric ton of greenhouse gases.

This bill would require the state board to instead consider the full social cost associated with emitting a metric ton of greenhouse gases,

as determined by the United States Environmental Protection Agency in November 2023.

~~This bill would state the intent of the Legislature to enact subsequent legislation to reauthorize the California Greenhouse Gas Cap and Trade Program.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 SECTION 1. Section 38562 of the Health and Safety Code, as
2 amended by Section 4 of Chapter 135 of the Statutes of 2017, is
3 amended to read:

4 38562. (a) On or before January 1, 2011, the state board shall
5 adopt greenhouse gas emissions limits and emissions reduction
6 measures by regulation to achieve the maximum technologically
7 feasible and cost-effective reductions in greenhouse gas emissions
8 in furtherance of achieving the statewide greenhouse gas emissions
9 limit, to become operative beginning on January 1, 2012.

10 (b) In adopting regulations pursuant to this section and Part 5
11 (commencing with Section 38570), to the extent feasible and in
12 furtherance of achieving the statewide greenhouse gas emissions
13 limit, the state board shall do all of the following:

14 (1) Design the regulations, including distribution of emissions
15 allowances where appropriate, in a manner that is equitable, seeks
16 to minimize costs and maximize the total benefits to California,
17 and encourages early action to reduce greenhouse gas emissions.

18 (2) Ensure that activities undertaken to comply with the
19 regulations do not disproportionately impact low-income
20 communities.

21 (3) Ensure that entities that have voluntarily reduced their
22 greenhouse gas emissions ~~prior to~~ before the implementation of
23 this section receive appropriate credit for early voluntary
24 reductions.

25 (4) Ensure that activities undertaken pursuant to the regulations
26 complement, and do not interfere with, efforts to achieve and
27 maintain federal and state ambient air quality standards and to
28 reduce toxic air contaminant emissions.

29 (5) Consider cost-effectiveness of these regulations.

1 (6) Consider overall societal benefits, including reductions in
2 other air pollutants, diversification of energy sources, and other
3 benefits to the economy, environment, and public health.

4 (7) Minimize the administrative burden of implementing and
5 complying with these regulations.

6 (8) Minimize leakage.

7 (9) Consider the significance of the contribution of each source
8 or category of sources to statewide emissions of greenhouse gases.

9 (c) (1) Unless otherwise required by context, terms in this
10 subdivision shall have the definitions that apply pursuant to Section
11 95802 of Title 17 of the California Code of Regulations, as they
12 read on January 1, 2017.

13 (2) The state board may adopt a regulation that establishes a
14 system of market-based declining annual aggregate emissions
15 limits for sources or categories of sources that emit greenhouse
16 gases, applicable from January 1, 2012, to December 31, 2030,
17 inclusive, that the state board determines will achieve the maximum
18 technologically feasible and cost-effective reductions in greenhouse
19 gas emissions, in the aggregate, from those sources or categories
20 of sources. In adopting a regulation applicable from January 1,
21 2021, to December 31, 2030, inclusive, pursuant to this subdivision,
22 the state board shall do all of the following:

23 (A) (i) Establish a price ceiling. In establishing the price ceiling,
24 the state board shall consider, using the best available science, all
25 of the following:

26 (I) The need to avoid adverse impacts on resident households,
27 businesses, and the state's economy.

28 (II) The 2020 tier prices of the allowance price containment
29 reserve.

30 (III) The full social cost associated with emitting a metric ton
31 of greenhouse ~~gases~~ *gases, as determined by the United States*
32 *Environmental Protection Agency in November 2023.*

33 (IV) The auction reserve price.

34 (V) The potential for environmental and economic leakage.

35 (VI) The cost per metric ton of greenhouse gas emissions
36 reductions to achieve the statewide emissions targets established
37 in Sections 38550 and 38566.

38 (ii) To implement the price ceiling, the state board shall develop
39 a mechanism that consists of both of the following:

1 (I) Allowances remaining in the allowance price containment
2 reserve as of December 31, 2020, shall be ~~utilized~~ *used* solely for
3 the purpose of sale at the price ceiling established by this section.

4 (II) If the allowances from the allowance price containment
5 reserve are exhausted, the state board shall offer covered entities
6 additional metric tons at the price ceiling if needed for compliance.
7 All moneys generated pursuant to this clause shall be expended
8 by the state board to achieve emissions reductions, on at least a
9 metric ton for metric ton basis, that are real, permanent,
10 quantifiable, verifiable, enforceable by the state ~~board~~ *board*, and
11 in addition to any greenhouse gas emission reduction otherwise
12 required by law or regulation and any other greenhouse gas
13 emission reduction that otherwise would occur.

14 (B) Establish two price containment points at levels below the
15 price ceiling. The state board shall offer to covered entities
16 nontradable allowances for sale at these price containment points.
17 The price containment points shall be established using two-thirds,
18 divided equally, of the allowances in the allowance price
19 containment reserve as of December 31, 2017.

20 (C) Require that current vintage allowances designated by the
21 state board for auction that remain unsold in the auction holding
22 account for more than 24 months to be transferred to the allowance
23 price containment reserve.

24 (D) Evaluate and address concerns related to overallocation in
25 the state board's determination of the number of available
26 allowances for years 2021 to 2030, inclusive, as appropriate.

27 (E) (i) Establish offset credit limits according to the following:

28 (I) From January 1, 2021, to December 31, 2025, inclusive, a
29 total of 4 percent of a covered entity's compliance obligation may
30 be met by surrendering offset credits of which no more than
31 one-half may be sourced from projects that do not provide direct
32 environmental benefits in state.

33 (II) From January 1, 2026, to December 31, 2030, inclusive, a
34 total of 6 percent of a covered entity's compliance obligation may
35 be met by surrendering offset credits of which no more than
36 one-half may be sourced from projects that do not provide direct
37 environmental benefits in the state.

38 (ii) For purposes of this subparagraph, "direct environmental
39 benefits in the state" are the reduction or avoidance of emissions
40 of any air pollutant in the state or the reduction or avoidance of

1 any pollutant that could have an adverse impact on waters of the
2 state.

3 (F) Develop approaches to increase offset projects in the state
4 considering guidance provided by the Compliance Offsets Protocol
5 Task Force, established pursuant to Section 38591.1.

6 (G) Set industry assistance factors for allowance allocation
7 commencing in 2021 at the levels applicable in the compliance
8 period of 2015 to 2017, inclusive. The state board shall apply a
9 declining cap adjustment factor to the industry allocation equivalent
10 to the overall statewide emissions declining cap using the
11 methodology from the compliance period of 2015 to 2017,
12 inclusive.

13 (H) Establish allowance banking rules that discourage
14 speculation, avoid financial windfalls, and consider the impact on
15 complying entities and volatility in the market.

16 (I) Report to the Legislature, by December 31, 2025, on the
17 progress toward meeting the greenhouse gas emissions reduction
18 targets established pursuant to Sections 38550 and 38566 and the
19 leakage risk posed by the regulation. The state board shall include
20 recommendations to the Legislature on necessary statutory changes
21 to the program to reduce leakage, including the potential for a
22 border carbon adjustment, while maintaining the state's ability to
23 reach its targets.

24 (J) (i) Report to the Legislature, in consultation with the
25 Independent Emissions Market Advisory Committee, established
26 pursuant to Section 38591.2, if two consecutive auctions exceed
27 the lower of the price containment levels established pursuant to
28 subparagraph (B). The report shall assess the potential for
29 allowance prices to reach the price ceiling for multiple auctions.

30 (ii) A report submitted to the Legislature pursuant to this section
31 shall be submitted in compliance with Section 9795 of the
32 Government Code.

33 (K) Report to the relevant fiscal and policy committees of the
34 Legislature, including the Joint Committee on Climate Change
35 Policies, on all of the following:

36 (i) Updates to the scoping plan prepared pursuant to Section
37 38561 ~~prior to~~ *before* adopting the update.

38 (ii) Updates on the implementation of the scoping plan prepared
39 pursuant to Section 38561.

1 (iii) Updates on the implementation of the market-based
2 compliance mechanism adopted pursuant to this subdivision.

3 (d) Any regulation adopted by the state board pursuant to this
4 part or Part 5 (commencing with Section 38570) shall ensure all
5 of the following:

6 (1) The greenhouse gas emission reductions achieved are real,
7 permanent, quantifiable, verifiable, and enforceable by the state
8 board.

9 (2) For regulations pursuant to Part 5 (commencing with Section
10 38570), the reduction is in addition to any greenhouse gas emission
11 reduction otherwise required by law or regulation, and any other
12 greenhouse gas emission reduction that otherwise would occur.

13 (3) If applicable, the greenhouse gas emission reduction occurs
14 over the same time period and is equivalent in amount to any direct
15 emission reduction required pursuant to this division.

16 (e) The state board shall rely upon the best available economic
17 and scientific information and its assessment of existing and
18 projected technological capabilities when adopting the regulations
19 required by this section.

20 (f) The state board shall consult with the Public Utilities
21 Commission in the development of the regulations as they affect
22 electricity and natural gas providers in order to minimize
23 duplicative or inconsistent regulatory requirements.

24 (g) The state board may revise regulations adopted pursuant to
25 this section and adopt additional regulations to further the
26 provisions of this division.

27 (h) This section shall remain in effect only until January 1, 2031,
28 and as of that date is ~~repealed, unless a later enacted statute which~~
29 ~~is enacted before that date, deletes or extends that date.~~ *repealed.*

30 ~~SECTION 1. It is the intent of the Legislature to enact~~
31 ~~subsequent legislation to reauthorize the California Greenhouse~~
32 ~~Gas Cap and Trade Program (Article 5 (commencing with Section~~
33 ~~95801) of Subchapter 10 of Chapter 1 of Division 3 of Title 17 of~~
34 ~~the California Code of Regulations).~~

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