SENATE THIRD READING
SB 1206 (Skinner)
As Amended August 11, 2022
Majority vote

SUMMARY

Prohibits the sale or distribution of bulk hydrofluorocarbons (HFCs) that exceed specified global warming potential (GWP) limits and requires the Air Resources Board (ARB) to initiate a rulemaking for the adoption of low and ultra-low GWP refrigerant alternatives in California in sectors where it is practicable. This bill also requires ARB to submit a proposal to the Legislature by January 1, 2024, specifying how to transition the state's economy away from HFCs and to low or ultra-low GWP alternatives by 2035.

Major Provisions

1) Defines, for the purpose of this legislation:

    a) "Bulk" as a regulated substance of any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. A regulated substance contained in a manufactured product such as an appliance, an aerosol can, or a foam is not a bulk substance;

    b) "Hydrofluorocarbons" as fluorinated gases used primarily as refrigerants in refrigeration, air-conditioning equipment, foam expansion agents, aerosol propellants, solvents, and fire suppressants;

    c) "Global warming potential" as a measure of how much energy the emissions of one ton of gas will absorb over a given period of time relative to the emissions of one ton of carbon dioxide. The specific values for a substance are those published by the Intergovernmental Panel on Climate Change in its Fourth or Fifth Assessment Report, or as determined by ARB in a regulation;

    d) "Low GWP" as GWP of less than 150; and

    e) "Ultra-low GWP" as GWP of less than 10.

2) Prohibits the sale, distribution, or entering into state commerce bulk HFCs or bulk blends containing HFCs that exceed:

    a) GWP of 2,200 after January 1, 2025;

    b) GWP of 1,500 after January 1, 2030; and

    c) GWP of 750 after January 1, 2033.

3) Authorizes ARB to establish maximum allowable GWP levels for HFCs entered into commerce in the state that are lower than the targets in this bill.

4) Exempts:

    a) Reclaimed HFCs.

b) HFCs exclusively used in FDA-approved metered dose inhalers, until December 27, 2030.

5) Prohibits, beginning January 1, 2025, the use of any non-reclaimed HFCs with a GWP greater than 750 to replenish leaks or otherwise service stationary equipment owned or operated by the state.

6) Requires ARB to initiate a rulemaking to require low and ultra-low alternatives to HFCs in a sector unless it is not practicable for entities in the sector to comply with the requirement.

7) Provides that violations are subject to specified existing ARB enforcement and civil penalty statutes.

8) Requires ARB to post an assessment by January 1, 2025, specifying how to transition California's economy, by sector, away from HFCs by 2035 through maximizing recovery and reclamation and increasing adoption of alternative low and ultra-low GWP refrigerants, including:

   a) A list of all existing sources of incentives for reducing HFC emissions to 40% of 2013 levels by 2030 and whether the GWP of the technology supported in these programs should be lowered;

   b) Proposals for additional incentives, safety testing, and demonstration projects to aid the transition away from HFCs and increase market availability of alternative refrigerants and reclamation technology. This includes testing needed to update safety standards for design and use of equipment using low and ultra-low GWP refrigerants;

   c) Suggested legislative or regulatory changes necessary to transition away from HFCs;

   d) Recommendations on interim steps to fully transition to ultra-low or no GWP alternatives including how to establish a robust reclamation system for HFCs with higher GWP;

   e) An analysis by the CEC of issues preventing high levels of HFC reclamation today, which must include an analysis of the reverse supply chain, include interviews with appliance technicians servicing HFC-using appliances in California, and with refrigerant distributers and wholesalers; and

Workforce training recommendations to grow the workforce of technicians capable of handling natural alternatives with GWP < 15 and servicing the new appliances that use these refrigerants

COMMENTS

Carbon dioxide (CO_2) remains in the atmosphere for centuries, which makes it the most critical GHG to reduce in order to limit long-term climate change. However, short-lived climate pollutants (SLCPs) including HFCs, methane, and soot (black carbon), only persist in the atmosphere from a few weeks to 15 years, but have much higher GWP than CO_2, and therefore pose a significant threat to meeting climate goals.

SB 1383 (Lara), Chapter 395, Statutes of 2016, requires reductions of HFCs (also known as F-gases) which are synthetic gases used in refrigeration, air conditioning, insulation foams,

solvents, aerosol products, and fire protection. They are primarily produced for use as substitutes for ozone-depleting substances which are being phased out globally. HFCs, on average, have a global warming potential 1600 times that of CO_2 on a 20-year time scale, and are increasing at a more rapid pace than any other GHG in the U.S., and increasing 10-15% annually around the globe. SB 1383 requires reductions of HFCs 40 percent below 2013 levels by 2030.

Class I and Class II refrigerants are ozone-depleting substances (ODS), and Class II ODS have less ozone depletion potential than Class Is. HFCs were initially developed as Class II alternatives to Class I ODSs due to their lower ozone depletion potential. HFCs are subject to the Montreal Protocol, adopted in 1987 to address the depletion of the ozone layer, which requires incremental HFC phase-out, culminating with complete replacement by 2030.

The United States Environmental Protection Agency (US EPA) Significant New Alternatives Policy (SNAP) program was established under Section 612 of the federal Clean Air Act to identify and evaluate substitutes for ODS. Under SNAP, US EPA Rules adopted in 2015 effectively banned 38 HFCs across the aerosol, new car air conditioning, retail food refrigeration, and foam blowing sectors, but a 2017 federal court ruling reversed these rules, finding that the FCAA does not authorize the replacement of non ODSs, including some HFCs, to address climate change concerns.

SB 1013 (Lara), Chapter 375, Statutes of 2018, adopted analogous HFC regulations in state law and offers financial incentives to assist businesses with technology transition.

According to the Author
HFCs, now commonly used in air conditioners and refrigerators, are a potent driver of climate change. Although HFCs are among the so-called "short-lived climate pollutants" that only persist in the atmosphere for about 20 years, over those 20 years they are thousands of times more damaging to the climate than carbon dioxide. That's why the international science community has targeted taking action now on HFCs and other short lived climate pollutants as critical to help avert catastrophic climate change.

SB 1206 is aimed at significantly lowering emissions from HFCs by incentivizing the market for reclaiming and reusing existing HFCs and limiting the sale of high global warming potential HFCs and directing ARB to develop proposals for transitioning away from HFCs to available, alternative refrigerants by 2035.

Arguments in Support
According to Natural Resources Defense Council, California took early and ambitious action on HFCs, making it a national leader in the effort to move beyond HFCs. SB 1206 carries that leadership forward by establishing measures to end sale of virgin HFCs progressively over the next decade. It also encourages an expansion of the industry that recovers, reclaims, and resells HFCs by calling for all state-owned refrigeration equipment to use reclaimed refrigerant by the middle of this decade. While this is a good start, even more should be done to increase rates of HFC recovery and reclamation going forward, as a means to accelerate the HFC phasedown and halt emissions quickly. Finally, SB 1206 looks ahead to identify a pathway to using only climate-friendly refrigerants by 2035, a key step to moving beyond virgin HFCs in the not-too-distant future.

Arguments in Opposition
Manufacturers of medical inhalers oppose this bill, unless amended, based on the August 4 amendments removing the exemption for metered-dose inhalers. These opponents propose retaining an exemption for inhalers through 2030, which the amended bill includes.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, minor and absorbable costs to ARB, because the assessment required in the bill is duplicative of work already underway at ARB.

VOTES

SENATE FLOOR: 30-9-1
YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
ABS, ABST OR NV: Hertzberg

ASM NATURAL RESOURCES: 7-2-2
YES: Luz Rivas, Friedman, Cristina Garcia, Muratsuchi, Stone, Wood, Boerner Horvath
NO: Mathis, Seyarto
ABS, ABST OR NV: Flora, McCarty

ASM APPROPRIATIONS: 11-4-1
YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson
NO: Bigelow, Megan Dahle, Davies, Fong
ABS, ABST OR NV: Eduardo Garcia

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