

Date of Hearing: April 13, 2026

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1911 (Rogers) – As Introduced February 12, 2026

SUBJECT: Advertising: environmental marketing claims: carbon credits

SUMMARY: Establishes an affirmative defense against claims brought under the Environmental Advertising Law if the environmental marketing claim in question is based on the voluntary use of a carbon credit issued by a carbon crediting program meeting specified standards.

EXISTING LAW:

- 1) The California Global Warming Solutions Act requires the Air Resources Board (ARB) to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020, to ensure that statewide GHG emissions are reduced to at least 40% below the 2020 statewide limit no later than December 31, 2030, and declares the policy of the state to achieve net zero greenhouse gas emissions by 2045. Requires ARB, among other things, to:
 - a) Adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions;
 - b) Ensure any direct regulation or market-based compliance mechanism achieves GHG reductions that are real, permanent, quantifiable, verifiable, and enforceable by ARB;
 - c) Limit offsets used in the cap and invest regulation; and,
 - d) Adopt methodologies for the quantification of voluntary GHG emission reductions.(Health and Safety Code (HSC) 38500 *et seq.*)
- 2) Requires disclosure of specified information by sellers and buyers of voluntary carbon offsets, as well as by entities making claims regarding the achievement of net zero emissions, carbon neutrality, or GHG reductions based on carbon offsets, and subjects violators to a civil penalty up to \$2,500 per day for each violation. (HSC 44475 *et seq.*)
- 3) Establishes the Unfair Competition Law, which defines “unfair competition” to mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising and any act prohibited by the False Advertising Law. Provides for a civil penalty up to \$2,500 for each violation. (Business and Professions Code (BPC) 17200 *et seq.*)
- 4) Prohibits a person from making an untruthful, deceptive, or misleading environmental marketing claim, whether explicit or implied. Defines “environmental marketing claim” to include any claim contained in the “Guides for the Use of Environmental Marketing Claims” published by the Federal Trade Commission (FTC), and provides that it is a defense to any suit or complaint brought under this section that the person’s environmental marketing claims conform to the standards or are consistent with the examples contained in the FTC Guides, with specified exceptions for recycling claims. (BPC 17580.5)

THIS BILL:

- 1) Establishes an affirmative defense against claims brought under the BPC 17580.5 if the environmental marketing claim in question is based on the voluntary use of a carbon credit issued by a carbon crediting program meeting one of the following standards:
 - a) An offset project registry approved by ARB pursuant to its cap and invest regulation.
 - b) A program approved by the International Civil Aviation Organization to supply credits for use in the Carbon Offsetting Reduction Scheme for International Aviation (CORSIA).
 - c) A program that meets criteria intended to fit the Integrity Council for Voluntary Carbon Markets (ICVCM), including:
 - i) Adopts clear methodologies and protocols with transparent development processes that accommodate public input, and publicly discloses all approved quantification methodologies.
 - ii) Defines and publicly discloses the level at which activities are allowed, for example project based, program of activities, and eligibility criteria for each type of credited activity.
 - iii) Establishes and publicly discloses procedures for how carbon credits are discounted, issued, retired or canceled, and the length of the crediting period.
 - iv) Has mechanisms and procedures to do all of the following:
 - (1) Track units in a publicly accessible registry.
 - (2) Individually identify units through serial numbers or other unique identifiers.
 - (3) Provide a secure registry.
 - (4) Clearly identify unit holders.
 - v) Has in place program-level requirements for robust independent third-party validation and verification of mitigation activities.
 - vi) Has and discloses an effective program governance structure that ensures transparency, accountability, and continuous improvement and the overall quality of carbon credits, and has a program governance structure that meets all of the following criteria:
 - (1) It has a board comprising independent board members who assume a fiduciary responsibility for the organization and operate according to robust bylaws and have established processes for addressing conflicts of interest.
 - (2) It publishes an annual report containing the organization's revenues, expenses, and net assets.

- (3) It has robust anti-money laundering processes in place and follows practices consistent with robust antibribery and anticorruption guidance and regulation.
- vii) Publicly discloses in an electronic format accessible to nonspecialized audiences all of the following:
- (1) What information is captured and made available to different stakeholders.
 - (2) Local stakeholder consultation requirements.
 - (3) Public grievance and consultation provisions and requirements, and how they are considered.
- viii) Has clear guidance, tools, and compliance procedures to ensure mitigation activities conform with or go beyond widely established industry best practices on social and environmental safeguards while delivering positive sustainable development impacts.
- ix) Provides information on how it addresses double counting and double issuance and double claiming in the context of evolving national and international regimes for carbon credit markets and tracking.
- x) Has provisions that ensure the mitigation activity shall be permanent or, where there is a risk of reversal, have measures in place to address those risks or compensate for reversals.
- 2) Requires ARB to publish and maintain a list of carbon crediting programs that satisfy the requirements above.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** Individuals and corporations purchase carbon offsets to compensate for the GHG emissions they create or contribute to. As more people purchase these reductions to compensate for their carbon footprint, questions arise as to what is being done to ensure that they are purchasing genuine carbon offsets. There is growing concern about the validity of emission reductions from projects sold and the potential for fraud. Despite the growth of the voluntary offset market in supporting advertising claims and even legal requirements, such as mitigation of GHG emissions under the California Environmental Quality Act, the market has remained fairly opaque, and is not regulated by ARB or any other state entity.

AB 1305 (Gabriel), Chapter 365, Statutes of 2023, established new disclosure requirements for voluntary carbon offsets, applicable to both sellers and buyers of offsets, as well as marketing claims, subjecting violators to a civil penalty up to \$2,500 per day.

In addition, there are ongoing efforts to develop voluntary standards at both the federal and international level to improve integrity of offsets. This includes updating the FTC guidelines, which is likely going nowhere good under the current administration, as well the ICVCM, which seeks to establish a recognized global standard for offset integrity.

Meanwhile, corporations such as Apple and Delta Airlines have been sued in California and other jurisdictions, with plaintiffs alleging, in essence, that the companies' claims that their products and services are carbon neutral due to procurement of offsets, are fraudulent.

2) **Author's statement:**

Voluntary carbon markets help channel private investments toward climate solutions. For these markets to succeed, businesses and consumers must have confidence that credited emissions reductions and removals are real, verifiable, and backed by strong standards. AB 1911 strengthens that trust by establishing clear guardrails that protect companies making good-faith environmental marketing claims when they rely on high-quality carbon credits.

- 3) **Cart before horse?** This bill validates marketing claims without also addressing the well-documented infirmities in voluntary carbon markets. A key difference between this bill and SB 1036 (Limon) is that SB 1036 put improving the integrity of voluntary offsets first, which provoked opponents of the bill to request the addition of an affirmative defense they could claim if they followed specified standards. In contrast, this bill puts the affirmative defense first, based on following existing standards, which are largely outside of the control of the state, and that have yet to prove to solve the problems with integrity of voluntary offsets.

Indeed, some of the integrity problems, such as accounting for additionality, seem endemic to the voluntary offset enterprise because both sides of a voluntary offset transaction may have an incentive to cheat. This incentive is coupled with verification challenges, particularly for the vast majority of projects outside of California. A primary effect of this bill is to shield corporations making environmental marketing claims premised on offsets from greenwashing claims. Another potential effect will be to lessen the incentive to improve the integrity of voluntary offsets.

- 4) **Proposed amendments.** The author and the committee may wish to consider amending this bill to create a rebuttable presumption, rather than an affirmative defense, require compliance with the offset disclosure requirements established by AB 1305, sunset the bill in 2032, and make other technical amendments.

5) **Prior legislation:**

SB 1036 (Limon) prohibits specified actions related to voluntary carbon offsets, including verifying, registering, marketing and selling, if the person knows or should know that the GHG reductions or GHG removal enhancements of the offset are unlikely to be quantifiable, real, and additional, as defined. SB 1036 was left in this committee in 2024.

SB 390 (Limón) sought to establish standards and civil enforcement for offsets similar to SB 1036. SB 390 passed this committee in 2023, and passed the Legislature with no opposition and not a single no vote, but was ultimately vetoed by the governor, with the following message:

This bill makes certain actions related to voluntary carbon offsets subject to the False Advertising Law, including with respect to offsets that a person knows, or should have known, do not durably reduce greenhouse gases in an amount equal to the "atmospheric lifetime" of carbon dioxide emissions.

I support the author's intent to bring greater transparency to the verification, issuance, and sale of voluntary carbon offsets, and to address the problem of so-called “junk offsets.” However, by imposing civil liability for even unintentional mistakes about offset quality, this bill could inadvertently capture well-intentioned sellers and verifiers of voluntary offsets, and risks creating significant turmoil in the market for carbon offsets, potentially even beyond California. I encourage the author to consider an alternative approach to ensuring voluntary carbon offset quality that avoids these unintended consequences.

AB 1305 (Gabriel), Chapter 365, Statutes of 2023, requires disclosure of specified information by sellers and buyers of voluntary carbon offsets, including entities making marketing claims, and subjects violators to a civil penalty up to \$2,500 per day for each violation.

AB 2331 (Gabriel) was a “clean up” measure for AB 1305, clarifying that that a voluntary carbon offset does not include a renewable energy certificate (REC) or a low carbon fuel standard (LCFS) credit, and specifying that required disclosures must be posted by January 1, 2025. AB 2331 passed this committee in April 2024, and eventually passed the Assembly and Senate, but was parked by the author on concurrence due to unresolved issues.

6) **Double referral.** This bill has been double-referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Conservation International Foundation (co-sponsor)
Environmental Defense Fund (co-sponsor)
American Carbon Registry
Anew Climate
Climate Action Reserve
Cool Effect
The Climate Trust

Opposition

None on file

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