

AMENDED IN ASSEMBLY APRIL 24, 2024

AMENDED IN ASSEMBLY APRIL 8, 2024

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2760

Introduced by Assembly Member Muratsuchi

February 15, 2024

An act to add and repeal Chapter 6 (commencing with Section 39900) of Part 2 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, as amended, Muratsuchi. Lower Emissions Equipment at Seaports and Intermodal Yards Program.

Existing law, upon the appropriation of funds by the Legislature, requires the State Air Resources Board to allocate funds on a competitive basis for projects that are shown to achieve the greatest emission reductions from each emission source identified, as specified, from activities related to the movement of freight along California's trade corridors, commencing at the state's airports, seaports, and land ports of entry.

This bill would, until January 1, 2032, enact the Lower Emissions Equipment at Seaports and Intermodal Yards Program. The program would be administered by the state board and would require the state board to approve as covered equipment applicable cargo handling equipment that will reduce cumulative emissions at seaports and intermodal yards in the state. The bill would require a covered equipment application to be approved by the state board if the applicant

demonstrates that the total surplus emissions from covered equipment are lower cumulative emissions than the emissions resulting from compliance with the current applicable cargo handling equipment statute, regulation, or rule, as determined by the state board pursuant to the methodology established by the bill, or that the covered equipment meets the standards and definitions for zero emissions set forth under a specified European Union regulation. The bill would require the state board to *establish and certify the useful lifespan of each item of covered equipment, and to certify* cargo handling equipment as covered equipment if the applicant seller, reseller, distributor, or manufacturer of the cargo handling equipment demonstrates to the state board that the equipment satisfies specified criteria. The bill would require the state board to establish an application fee, as specified, and would require the application fees to be deposited in the Air Pollution Control Fund and made available to the state board upon appropriation by the Legislature. The bill would require a covered equipment application to be provided to the state board for approval before December 31, 2025. The bill would require the state board, by January 1, 2027, and January 1, 2031, to evaluate the impact of the program on state and local clean air efforts to meet state and local clean air goals and to hold at least one public workshop before completing the evaluation.

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

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

1 SECTION 1. Chapter 6 (commencing with Section 39900) is
 2 added to Part 2 of Division 26 of the Health and Safety Code, to
 3 read:
 4
 5 CHAPTER 6. LOWER EMISSIONS EQUIPMENT AT SEAPORTS AND
 6 INTERMODAL YARDS PROGRAM
 7
 8 39900. The Legislature finds and declares all of the following:
 9 (a) It is in the best interests of all Californians to find innovative
 10 and cost-effective ways to eliminate the localized impacts from
 11 emissions of toxic air contaminants, including diesel emissions
 12 and other criteria pollutants, as quickly as possible, while it is in
 13 the best interests of all global citizens to reduce the total volume
 14 of greenhouse gas emissions.

1 (b) The state has accelerated emission reductions in many
2 manners that benefit both local and global emission goals, including
3 through regulatory enactments and the use of strategic incentives.

4 (c) The state must maintain its aggressive long-term priority
5 emission reductions goals for reducing greenhouse gases through
6 the implementation of zero-emission technologies while also
7 addressing the priority of reducing the public health and air quality
8 impacts of toxic air contaminants and criteria pollutants during
9 the intervening years leading up to and during the implementation
10 of zero-emission technologies.

11 (d) In those instances where zero-emission technologies are not
12 yet commercially available, required by law, or economically
13 feasible, transitional technologies can provide an effective bridging
14 technology that results in significant reductions in toxic air
15 contaminants and criteria pollutants in the short term until
16 zero-emission technologies are implemented.

17 (e) Impacted California communities benefit from the reduction
18 of toxic air contaminants and criteria pollutants earlier and greater
19 than otherwise required by law.

20 (f) The state benefits from the enactment of programs that
21 encourage regulators and regulated industry to work cooperatively
22 in the creation of programs that successfully result in the utilization
23 and development of innovative new concepts to introduce
24 zero-emission and lower emission equipment into seaport
25 operations in California.

26 (g) It is in the best interests of the people of the State of
27 California to achieve cumulative lower emission reduction
28 outcomes at seaports and intermodal yards by application of
29 innovative concepts in partnership with industry in a manner that
30 protects public health and the environment.

31 39901. The Legislature further finds and declares that all
32 emission reductions generated by this chapter that result in a
33 cumulative reduction in diesel air toxic contaminants contribute
34 to public health by reducing, for the life of the equipment being
35 approved, the total amount of emissions in the state.

36 39902. It is the intent of the Legislature to do all of the
37 following:

38 (a) Facilitate an innovative program that produces early and
39 extra reductions of local criteria and toxic air contaminant

1 emissions and greenhouse gas emissions like an incentive program,
2 but with little to no cost to the state or taxpayers.

3 (b) Maximize near-term local emission reductions of toxic air
4 contaminants and criteria pollutants and to accelerate global
5 reductions of greenhouse gas emissions resulting in reductions
6 that are greater than those that would otherwise occur under current
7 law.

8 (c) Ensure that the cumulative emission reductions from seaport
9 and intermodal yard equipment pursuant to this chapter will result
10 in emissions that are less than the cumulative outcome of acting
11 pursuant to the current and expected regulatory baseline.

12 (d) Provide owners of cargo handling equipment at California
13 seaports and intermodal yards certainty about the useful life of
14 equipment purchased pursuant to programs implemented by the
15 state board pursuant to this chapter to meet required environmental
16 standards.

17 (e) Encourage, in California, the investment in, purchase of,
18 and use of cargo handling equipment that meets the standards and
19 definitions for zero emissions set forth in European Union (EU)
20 Regulation No. 2019/1242.

21 39903. As used in this chapter, the following definitions apply:

22 (a) “Cargo handling equipment” means any off-road,
23 self-propelled vehicle or equipment used at a port or intermodal
24 railyard to lift or move container, bulk, or liquid cargo carried by
25 ship, train, or another vehicle, or used to perform maintenance and
26 repair activities that are routinely scheduled or that are due to
27 predictable process upsets.

28 (1) Cargo handling equipment includes, but is not limited to,
29 rubber-tired gantry cranes, yard trucks, top handlers, side handlers,
30 reach stackers, forklifts, loaders, aerial lifts, excavators, and dozers.
31 Cargo handling equipment does not include any yard truck that is
32 licensed as an on-road vehicle.

33 (2) For purposes of this chapter, cargo handling equipment does
34 not mean any fully automated cargo handling equipment or
35 infrastructure that is used to support fully automated cargo handling
36 equipment, including equipment that is remotely operated and
37 remotely monitored with or without the exercise of human
38 intervention or control. This section does not limit the use of
39 devices that support human-operated cargo handling equipment,

1 including equipment to evaluate the utilization and environmental
2 benefits of that human-operated equipment.

3 (b) (1) “Covered equipment” means any hydrogen-powered
4 cargo handling equipment or off-road hybridized rubber-tired
5 gantry cranes that significantly reduce criteria pollutants, toxic air
6 contaminants, and greenhouse gas emissions.

7 (2) “Covered equipment” includes any of the following:

8 (A) New equipment sold for operation at a seaport or intermodal
9 yard.

10 (B) Retrofit or replacement of old engines powering equipment
11 with new or retrofitted engines, motors, or drives for operation at
12 a seaport or intermodal yard.

13 (C) Development and demonstration of advanced technologies
14 for equipment for operation at a seaport or intermodal yard.

15 (c) “Regulatory baseline” means the state board’s 2022 Cargo
16 Handling Equipment Emission Inventory, and any subsequent
17 updates to the inventory.

18 (e)

19 (d) “Repower” means to replace an existing engine with a newer
20 engine or power source.

21 39904. (a) The state board shall approve as covered equipment
22 applicable cargo handling equipment that will reduce cumulative
23 emissions at seaports and intermodal yards in the state.

24 (b) Eligibility for covered equipment approvals shall be
25 determined by the state board in accordance with this chapter.

26 (c) A covered equipment application shall be approved by the
27 state board if the applicant demonstrates either of the following:

28 (1) The total surplus emissions from covered equipment are
29 lower cumulative emissions than the emissions resulting from
30 compliance with the current applicable cargo handling equipment
31 statute, regulation, or rule, as determined by the state board
32 pursuant to the methodology established by this chapter.

33 (2) The covered equipment meets the standards and definitions
34 for zero emissions set forth under European Union (EU) Regulation
35 No. 2019/1242.

36 (d) An application for covered equipment shall not be deemed
37 ineligible for approval solely on the basis that the subsequent
38 purchase or funding for the acquisition of covered equipment may
39 be purchased with the use of any state or federal grant funding,
40 funded or used for credit under any state or federal emissions

1 averaging, banking, or trading program, or used in any other
2 voluntary emission reduction program.

3 (e) An application for covered equipment shall not be deemed
4 ineligible for approval solely on the basis that the subsequent
5 purchase of covered equipment is entered into pursuant to a
6 corporate or a controlling board's policy, plan, tenancy agreement,
7 port lease, or any other contract.

8 (f) Eligible applicants may be any individual, company, or public
9 agency that sells, resells, distributes, or manufactures cargo
10 handling equipment for the purposes of operating at a seaport or
11 intermodal yard in the state.

12 (g) A covered equipment application shall not be approved for
13 the sale, manufacture, distribution, or retrofit of fully automated
14 cargo handling equipment or infrastructure that is used to support
15 fully automated cargo handling equipment.

16 39905. (a) *The state board shall establish and certify the useful*
17 *lifespan of each item of covered equipment.*

18 ~~(a)~~

19 (b) The state board shall certify cargo handling equipment as
20 covered equipment under this chapter if the applicant seller,
21 reseller, distributor, or manufacturer of the cargo handling
22 equipment demonstrates to the state board that the equipment
23 satisfies all of the following:

24 (1) Demonstrates cumulative emission reductions of nitrogen
25 oxides greater than the regulatory baseline over the useful life of
26 the cargo handling equipment identified in an application.

27 (2) Demonstrates cumulative emission reductions of diesel
28 particulate matter greater than the regulatory baseline over the
29 useful life of the cargo handling equipment identified in an
30 application.

31 (3) Demonstrates cumulative emission reductions of greenhouse
32 gases greater than the regulatory baseline over the useful life of
33 the cargo handling equipment identified in an application.

34 (4) Demonstrates immediate emission reductions of nitrogen
35 oxides and diesel particulate matter upon initial use in operations
36 that will be at least 10 percent greater than the regulatory baseline
37 at the time of application.

38 ~~(b)~~

39 (c) The applicant shall provide in an application all of the
40 following:

- 1 (1) A methodology for evaluating cumulative emission
2 reductions of nitrogen oxides emissions.
- 3 (2) A methodology for evaluating cumulative emission
4 reductions of diesel particulate matter.
- 5 (3) A methodology for evaluating cumulative emission
6 reductions of greenhouse gases.
- 7 ~~(4) A methodology for determining the useful life for a piece~~
8 ~~of cargo handling equipment.~~
- 9 ~~(5)~~
- 10 (4) A baseline emissions profile for regulated emission
11 reductions of nitrogen oxides, diesel particulate matter, and
12 greenhouse gases based on the application of both the current
13 applicable statutes, regulations, and rules regarding cargo handling
14 equipment regulation.
- 15 ~~(e)~~
- 16 (d) An application shall be provided to the state board for
17 approval pursuant to this section before December 31, 2025.
- 18 ~~(e)~~
- 19 (e) Applicants shall submit all information required by the state
20 board at the time of submission and upon subsequent request as
21 necessary to process the application.
- 22 ~~(e)~~
- 23 (f) The state board shall establish an application fee in a
24 reasonable amount to cover the administrative costs of processing
25 applications. Application fees collected pursuant to this subdivision
26 shall be deposited in the Air Pollution Control Fund and made
27 available to the state board for those purposes upon appropriation
28 by the Legislature.
- 29 39906. (a) Except for rubber-tired gantry cranes, covered
30 equipment that is purchased before January 1, 2027, shall not be
31 required by any rule or regulation adopted by the state board to be
32 retired, replaced, retrofitted, or repowered until the end of the
33 useful life of the equipment as established by the state board for
34 each piece of equipment certified pursuant to Section 39905.
- 35 (b) The retirement, replacement, retrofit, or repower of covered
36 equipment rubber-tired gantry cranes that are purchased before
37 January 1, 2027, shall not be required by any rule or regulation
38 adopted by the state board until the end of the useful life of the
39 equipment as established by the state board for the equipment

1 certified pursuant to Section 39905 or January 1, 2045, whichever
2 date is earlier.

3 39907. (a) The state board shall, by January 1, 2027, and
4 January 1, 2031, evaluate the impact of the provisions of this
5 chapter on state and local clean air efforts to meet state and local
6 clean air goals.

7 (b) The state board shall hold at least one public workshop prior
8 to the completion of the evaluations required pursuant to
9 subdivision (a).

10 39908. This chapter shall remain in effect only until January
11 1, 2032, and as of that date is repealed.

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