AMENDED IN ASSEMBLY JULY 1, 2019

AMENDED IN ASSEMBLY JUNE 17, 2019

AMENDED IN SENATE MAY 21, 2019

AMENDED IN SENATE APRIL 29, 2019

AMENDED IN SENATE APRIL 22, 2019

SENATE BILL No. 43

Introduced by Senator Allen

December 3, 2018

An act to add Section 38561.5 to the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Allen. Carbon ~~taxes.~~ *intensity and pricing: retail products.*

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. The state board is required to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020 and to ensure that statewide greenhouse gas emissions are reduced to at least 40% below the 1990 level by 2030.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would require the state board, no later than January 1, 2022, to submit a report to the Legislature on the findings from a study, as specified, to determine the feasibility and practicality of assessing the carbon intensity of all retail products subject to the tax imposed pursuant to the Sales and Use Tax Law, so that the total carbon equivalent emissions associated with such retail products can be quantified.

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

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

SECTION 1. Section 38561.5 is added to the Health and Safety Code, to read:

38561.5. (a) On or before January 1, 2022, the state board shall submit a report to the Legislature on the findings from a study to determine the feasibility and practicality of assessing the carbon intensity of all retail products subject to the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code) sold or offered for sale in the state. In conducting the study, the state board shall do all of the following:

(1) Make a determination whether there are feasible and practicable mechanisms for assessing and assigning carbon intensity to retail products subject to the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), so that the total carbon equivalent emissions associated with such retail products can be quantified. In the report, the state board shall specifically discuss the feasibility and practicality of calculating the carbon intensity for all retail products subject to the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code). That determination shall include all of the following:

(A) Whether a separate or modified mechanism is needed for evaluating the carbon intensity of categories of retail products imported into the state for sale.

(B) A consideration of how transportation emissions for in-state transport and to import products for sale to the state will be incorporated into an assessment of carbon intensity.

(C) An identification of retail products *and retail product types or categories* for which ~~a~~ carbon ~~intensity~~ *intensity, or another evaluation of product carbon emissions based on the product's life cycle,* has been determined pursuant to state or federal law, so as to avoid any duplication of the determination of the carbon intensity for those products.

(D) An identification of categories of products with similar carbon intensity characteristics that would be more practical and feasible to evaluate.

(2) Identify the availability of the data needed to develop a mechanism identified in paragraph (1), which may include, but need not be limited to, any of the following:

(A) Production processes and technology.

(B) Energy and fuel sources used for production.

(C) Transportation modes.

(3) Identify mechanisms for the collection, use, and protection of the data required to conduct an assessment.

(4) Consider how other studies or programs that assess taxes or fees based on the carbon intensity of retail products have evaluated carbon intensity.

~~(5) Identify, to the extent feasible, whether limiting the mechanism to certain retail product types or categories would provide the greatest carbon emissions reduction benefits if the state were to implement a revenue-neutral carbon pricing system to replace the tax imposed pursuant to the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code).~~

~~(6)~~

(5) Make the data and assumptions used in conducting the study available to the general public.

~~(7)~~

(6) Consult with the public, including entities regulated under this division, Section 38566, Chapter 135 of the Statutes of 2017, and the Clean Energy and Pollution Reduction Act of 2015 (Chapter 547 of the Statutes of 2015).

~~(8)~~

(7) Hold at least three public meetings prior to developing the report to be submitted.

(b) The state board shall consult with other agencies to address questions that the state board would not be able to address otherwise in the process of conducting the study.

(c) (1) The report required pursuant to subdivision (a) shall be submitted in accordance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, the requirement to submit the report pursuant to subdivision (a) shall be inoperative on January 1, 2026.

(d) This section does not diminish, alter, or extend any authority of the state board or any other agency participating in the study to impose a carbon-based tax or fee on retail products in this state pursuant to law.

O