

ASSEMBLY BILL NO. 416—ASSEMBLYWOMAN SWANK

MARCH 27, 2017

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to establish a program to use certain settlement money received from the Volkswagen Corporation and its subsidiaries. (BDR S-1050)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to environmental protection; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to establish a program to use certain settlement money received from the Volkswagen Corporation and its subsidiaries; requiring the program to include priorities and other provisions for administering the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The United States District Court for the Northern District of California recently approved two partial consent decrees in litigation between the United States Department of Justice and the Volkswagen Corporation and its subsidiaries regarding the installation and use of emissions testing devices in many vehicles sold and operated in the United States. One provision of the partial consent decrees requires the Volkswagen Corporation to fund a Mitigation Trust, the money from which will be disbursed to each state based on the number of affected vehicles which were sold in each of those states. The money must be used to defray the cost of projects intended to offset the excess emissions of nitrogen oxides caused by the vehicles. (Partial Consent Decree, *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016) and Second Partial Consent Decree, *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016))

This bill requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources, in consultation with the



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17 Department of Motor Vehicles and the Department of Transportation, to develop a
18 program for distributing money from the Mitigation Trust to assist residents of this
19 State and local governmental entities in this State in repowering the engines of
20 certain vehicles with new diesel, alternate fueled or all-electric engines, or
21 replacing certain vehicles with new diesel, alternate fueled or all-electric vehicles,
22 to the extent that such repowering or replacing is authorized by the terms of the
23 consent decrees. The program developed by the Division must include a preference
24 for repowering or replacing vehicles: (1) manufactured not later than 2005; (2) with
25 over 200,000 miles registered on the odometer; (3) operated by and for a small
26 business; and (4) which have been operated in this State for not less than one half
27 of the time the vehicle has been owned by the current owner. Distributions of
28 money to a local governmental entity for repower or replacement of an eligible
29 vehicle must be limited to not more than 80 percent of the cost of such repowering
30 or replacing.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** 1. The Division of Environmental Protection of
2 the State Department of Conservation and Natural Resources, in its
3 role as lead agency on behalf of this State designated as required in
4 section 4.2.1 of Appendix D to the Partial Consent Decree, shall,
5 upon a determination of Beneficiary status pursuant to section 4.0 of
6 Appendix D to the Partial Consent Decree, prepare and submit a
7 Beneficiary Mitigation Plan as required by section 4.1 of Appendix
8 D to the Partial Consent Decree, which includes, without limitation,
9 the provisions of subsections 2 and 3 to the extent that such
10 provisions are permissible under the requirements of the Partial
11 Consent Decree and the Second Partial Consent Decree.

12 2. The Division of Environmental Protection of the State
13 Department of Conservation and Natural Resources, in consultation
14 with the Department of Motor Vehicles and the Department of
15 Transportation, shall develop a program for distributing money
16 received from the Mitigation Trust to residents of this State and
17 local governmental entities in this State to assist residents of this
18 State and local governmental entities in this State to:

19 (a) Replace with a new diesel, alternate fueled or all-electric
20 vehicle; or

21 (b) Repower with a new diesel, alternate fueled or all-electric
22 engine,

23 ↳ any vehicles that are eligible for replacement or repowering
24 under the terms of the Partial Consent Decree.

25 3. The program developed pursuant to subsection 2 must
26 include, without limitation:

27 (a) Priorities for the distribution of available money which
28 incorporate a preference for replacing or repowering a vehicle:

29 (1) Manufactured not later than 2005.



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1 (2) With over 200,000 miles registered on the odometer.
2 (3) Operated by and for a small business.
3 (4) Which has been operated in this State for not less than
4 one half of the time the vehicle has been owned by the current
5 owner.

6 (b) A limitation on the amount of money a local governmental
7 entity may receive to repower or replace a vehicle owned by the
8 local governmental entity, which must not exceed 80 percent of the
9 cost to repower or replace the vehicle.

10 (c) A procedure by which the owner of an eligible vehicle may
11 apply to participate in the program.

12 (d) Any documents or other evidence which the owner of an
13 eligible vehicle must provide, if applicable, to prove to the
14 satisfaction of the Division or its designee that the vehicle meets one
15 or more of the criteria in paragraph (a).

16 4. As used in this section:

17 (a) "Beneficiary" has the meaning ascribed to it in section 1.1 of
18 Appendix D to the Partial Consent Decree.

19 (b) "Beneficiary Mitigation Plan" means the submittal required
20 of a Beneficiary pursuant to section 4.1 of Appendix D to the Partial
21 Consent Decree.

22 (c) "Mitigation Trust" means the trust established by section
23 2.0.1 of Appendix D to the Partial Consent Decree and funded
24 pursuant to paragraph 14 of the Partial Consent Decree, paragraph
25 17 of the Second Partial Consent Decree and any subsequent
26 amendments to the Partial Consent Decree.

27 (d) "Partial Consent Decree" means Partial Consent Decree, In
28 re Volkswagen "Clean Diesel" Marketing, Sales Practices and
29 Products Liability Litigation, No. MDL No. 2672 CRB, (N.D. Cal.
30 Sept. 30, 2016).

31 (e) "Second Partial Consent Decree" means Second Partial
32 Consent Decree, In re Volkswagen "Clean Diesel" Marketing, Sales
33 Practices and Products Liability Litigation, No. MDL No. 2672
34 CRB, (N.D. Cal. Dec. 20, 2016).

35 (f) "Small business" means a business conducted for profit in
36 this State which employs not more than 50 employees.

37 **Sec. 2.** This act becomes effective upon passage and approval.

