



# CalNGV News

The newsletter of the California Natural Gas Vehicle Coalition

## Policy File

The Coalition will track the following bills and others related to alternative fuels and vehicles throughout the legislative session. Check this space in every issue for updates.

### AB 744 | Torrico

**In brief:** Authorizes the Bay Area Toll Authority to develop a high-occupancy toll (HOT) lane network within the Metropolitan Transportation Commission's nine-county jurisdiction.

**Details:** The Legislature is considering whether vehicles with access to HOV lanes, such as NGVs, should be allowed to travel free in HOT lanes.

**Status:** In Senate Appropriations Committee.

### AB 1672 | Jeffries

**In brief:** Requires the 11 members of the California Air Resources Board to be elected from 11 districts of roughly equal population, beginning in 2012.

**Status:** In Assembly Natural Resources Committee March 22.

### AB 2513 | Adams

**In brief:** Spot bill related to CARB.

**Details:** AB 2513 is one of several spot bills that are expected to be amended to reform or restrict CARB's regulatory authority.

**Status:** Awaits committee referral.

### SB 927 | Huff

**In brief:** Spot bill on HOV lanes.

**Details:** The Legislature is considering two bills, AB 1500 (Lieu) and SB 535 (Yee), that would extend HOV lane access for NGVs. AB 1500 is sponsored by the Coalition.

**Status:** Referred to Senate Rules committee.

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## INSIDE

**Regulatory Reform Bills** aim to expand economic review  
**News Briefs** EPA signals new GHG rules at Green Truck Summit; U.S. Senate votes to extend fuel tax credit

## Bills, Initiative Take Aim at AB 32

### Opponents of state global warming law launch multipronged effort to derail enforcement

**W**ith full adoption of the landmark California Global Warming Solutions Act of 2006 (AB 32) drawing near, opponents have launched a full-court press to delay, repeal, or disable the law.

AB 32 requires the state to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020—about a 25 percent cut—and directs CARB to adopt a full set of measures to achieve that goal by Jan. 1, 2011. CARB has already adopted a Scoping Plan that identifies ways to achieve maximum reductions from major emission sources, including power plants, refineries, industrial facilities, buildings, appliances, and transportation.

The agency has also adopted a set of “early action items” that includes the Low Carbon Fuel Standard (LCFS), which calls for reducing the carbon intensity of the state’s transportation fuel supply 10 percent by 2020. The Coalition was an active participant in developing the regulation, which assigns biomethane the lowest carbon intensity of any alternative fuel analyzed (including electricity and hydrogen) and recognizes CNG as a 2020-compliant fuel.

The LCFS drew some of the first attacks: lawsuits filed by ethanol trade groups and petroleum and trucking industry groups (see *CalNGV News*, 1.11.10 and 2.8.10). Now the entire law and various aspects of it are being challenged in the Legislature and potentially at the ballot box.

**Disputing economic impacts** Studies of AB 32’s economic impacts vary, but most predict results ranging from neutral to huge job gains. AB 32 opponents have been touting an outlier report by two CSU Sacramento professors—funded by the anti-AB 32 California Small Business Roundtable—that claims the law would cost each small business almost \$50,000. That report (Varshney/Tootelian) has been discredited by a barrage of withering criticism from private-sector and academic economists—the latest analysis, by Stanford University economist James Sweeney, calls it “highly biased” and “based on poor logic and unsound economic analysis.”

Opponents are now citing a recent report from the Legislative Analyst’s

**The entire law and various aspects of it are being challenged in the Legislature and potentially at the ballot box.**

Office that predicts modest near-term job losses. That report is equivocal and has been criticized for relying on the Scoping Plan (which is currently undergoing revision) rather than actual measures and for failing to cite independent research to back up its conclusions. Opponents, however, have seized on it in their continued attempt to label the law an economic disaster and play on voter anxiety about unemployment.

Legislation introduced in 2009 would suspend AB 32 implementation until unemployment drops to 5.5 percent for four consecutive quarters (AB 118, Logue). That's quite a hurdle, given that unemployment in California has been at or below 5.5 percent for four consecutive quarters only three times in the last 30 years. AB 118 was defeated in its first committee hearing in January. A bill introduced last month (SB 1263, Wyland) would simply make any regulation adopted under AB 32 inoperative, but that's likely to die in its first committee hearing as well.

The real action looks to be on the ballot: two out-of-state oil companies, Valero and Tesoro, recently committed up to \$2 million to get a measure modeled on the Logue bill onto the November ballot. This prompted the *San Jose Mercury News* to comment, "At least now it's obvious whose side the opponents of AB 32 are really on: polluters. Californians shouldn't be fooled by their proclamations of worry about the unemployed."

**Fighting cap and trade** Other pending bills address two controversial aspects of AB 32: a potential cap-and-trade and the allocation of revenues that might come from it.

AB 32 allows CARB to use "market-based mechanisms" like cap and trade, but doesn't require it. The agency is considering implementing a cap-and-trade program in 2012 that would affect about 600 of the state's largest GHG emission sources. The program would set a cap on GHG emissions, which would decline over time, and CARB would issue corresponding allowances (or permits) to emit. If regulated parties reduced emissions below their cap, they could sell their unused allowances on an open market.

In an attempt to prevent possible market manipulation and allowance banking, SB 1033 (Wright) would prohibit entities that are not regulated under the cap-and-trade program from buying, selling, or trading allowances. To prevent California from launching a state-only program that might reduce its economic competitiveness, SB 1120 (Dutton) would prohibit CARB from implementing a cap-and-trade program unless it is part of a legally enforceable regional or federal program.

**Allocating emission allowances** Assuming CARB adopts a cap-and-trade program, the most contentious issue is likely to be the allocation of emission allowances. CARB has not yet decided whether to auction the allowances or give them away to emitters covered by the cap. Giving them away would reduce the market value of excess allowances; an auction would establish a more accurate market value, but since it also would impose a cost on facilities that need them it has generated strong opposition. A third option is a hybrid system, with some allowances auctioned and others issued free.

If at least some allowances are auctioned, CARB will have to determine how to spend the revenue. AB 231 (Huffman) creates the Climate Protection Trust Fund to hold all allowance auction revenues, other AB 32 fee revenues, and all federal funds dedicated to climate change for the Legislature to allocate. AB 1405 (DeLeon) sets aside a portion of allowance revenues to help communities that are heavily affected by pollution from sources covered by AB 32. SB 1305 (Pavley) requires the Legislature to appropriate all revenues generated by AB 32 in a manner consistent with the law's goals.

Also pending are a handful of "spot" bills—empty vessels that declare their intent to change AB 32 in some as-yet-undefined way. These bills may never move or they may be amended into major bills. Either way, they're a sign that attempts to modify AB 32 are likely to be this year's dominant theme in air quality legislation. ▀

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### **SB 960 | Author: Dutton**

**In brief:** Requires the Legislative Analyst to analyze major regulations adopted by CARB to determine their costs and benefits and technological feasibility.

**Status:** Referred to the Senate Environmental Quality Committee.

### **SB 1033 | Author: Wright**

**In brief:** If market-based compliance mechanisms (such as cap and trade) are adopted to implement AB 32, SB 1033 prohibits CARB from selling, trading, or distributing a GHG emission allowance to anyone not subject to the cap.

**Details:** The author is concerned about market manipulation and allowance banking by entities not regulated under AB 32, which could drive up the cost of allowances for regulated entities.

**Status:** Referred to Senate Environmental Quality Committee.

### **SB 1120 | Author: Dutton**

**In brief:** Prohibits CARB from implementing a market-based compliance mechanism that includes caps on GHG emissions and trading among participants unless it is part of a legally enforceable regional or federal program.

**Status:** Referred to Senate Environmental Quality Committee.

### **SB 1198 | Author: Huff**

**In brief:** Allows the CEC to implement a regulation only if the Legislature approves it by a majority vote of both houses; prohibits a regulation that is adopted but not implemented on or before Jan. 1, 2011, from being implemented until the state's unemployment rate remains below 5.1% for three consecutive months.

**Details:** The prohibition on implementing regulations until the unemployment rate falls is similar to a prospective ballot initiative that would suspend AB 32 until the unemployment rate falls below 5.5% for four consecutive quarters.

**Status:** Referred to Senate Energy, Utilities and Communications committee.

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## Bills Demand More Economic Analysis

AB 32 is not the only regulatory effort under fire—CARB's implementation of far-reaching initiatives like the Statewide Truck and Bus rule for on-road heavy-duty diesel vehicles has coincided with the weak economy and high unemployment, provoking a backlash among many regulated parties and a spate of bills demanding more extensive economic review. These bills include:

AB 1833 (Logue) requires CARB and other CalEPA agencies, as well as Cal-OSHA, to analyze the economic impacts of proposed regulations on both the state general fund and affected businesses. SB 960 (Dutton) requires the Office of Administrative Law to analyze all major CARB regulations for costs to businesses and the state. AB 2466 (Smyth) requires regulations approved by the OAL to go to the Legislature's relevant policy committees, which must review them for consistency with underlying statutes and may recommend repeal.

AB 1949 (Logue) requires CalEPA agencies and Cal-OSHA to review all regulations every five years for economic impacts and ongoing necessity. The Western States Petroleum Association—sponsored AB 2311 (Mendoza) targets the Low Carbon Fuel Standard, requiring CARB to review its progress and economic impacts every three years, including an external peer review. The bill reflects demands WSPA made during the rulemaking process and is designed to strengthen the oil industry's hand in contesting the LCFS as it is implemented over the next 10 years.

SB 1198 (Huff) is the only regulatory reform bill to target the California Energy Commission—it prohibits the CEC from adopting any new regulations until they are approved by the Legislature and the unemployment rate drops below 5.1% for three consecutive months.

For the NGV industry and other environment-friendly industries, regulatory reform is often a double-edged sword: while most businesses instinctively support less regulation, NGVs benefit from rules to reduce air pollution and greenhouse gas emissions. If these bills pass and result in weaker rules, NGVs could suffer. ▀

### news briefs

**Green Truck Summit Sells Out, EPA Signals New GHG Rules** The EPA will regulate truck emissions of carbon dioxide and other greenhouse gases (GHGs) and those regulations will likely be linked with emerging fuel efficiency standards for trucks, said the EPA's Byron Bunker at the CALSTART-NTEA Green Truck Summit, held March 9–10 in St. Louis.

According to CALSTART's coverage of the presentation, Bunker said the agency will collaborate with industry to develop the rules, which should be straightforward and clear and achieve reductions as soon as possible, perhaps starting by 2014. Bunker also said the EPA intends to achieve reductions from the whole vehicle, not just the engine. As with emissions rules for passenger cars, the rules for trucks would align GHG and fuel efficiency standards.

The Green Truck Summit was a sellout, with more than 570 attendees and two days of presentations and discussions on AFVs and associated technologies, including several sessions on natural gas. At one panel discussion, industry representatives said the market footprint of natural gas as a fuel for medium- and heavy-duty trucks is growing, citing the rise in demand for natural gas engines, the expansion of markets beyond the West Coast, and the fact that all major truck makers have added natural gas options.

**Natural Gas Fuel Tax Credit Extension Passes Senate** The natural gas transportation fuel tax credit of 50 cents per gallon has passed the U.S. Senate as part of the American Workers, State and Business Relief Act (HR 4213). The bill, approved on a 62-36 vote, will extend the credit for one year, applied retroactively to the start of 2010. The bill must now be reconciled with the House version. The Coalition and NGVAmerica are urging Congress to move quickly to get this bill to the President's desk as soon as possible.

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### SB 1238 | R. Calderon

**In brief:** Requires CARB, when developing a plan to enforce diesel emission reduction regulations, to consult with affected businesses. Current law requires consultation with air pollution control districts and the public.

**Status:** Referred to Senate Environmental Quality Committee.

### SB 1245 | Simitian

**In brief:** Requires HOV and HOT lanes that allowed free passage for HOVs as of Jan. 1, 2010, to remain toll-free for HOVs after that date.

**Details:** The bill's language is unclear on whether single-occupant vehicles that qualify for HOV lane access also retain free passage.

**Status:** Referred to Senate Transportation and Housing Committee.

### SB 1263 | Author: Wyland

**In brief:** Makes the provisions of AB 32 and any regulation adopted pursuant to it inoperative.

**Details:** Similar legislation has already been voted down in the Assembly.

**Status:** Referred to Senate Environmental Quality Committee.

### SBX8 37 | Cedillo

**In brief:** Requires CARB to make Moyer grants without regard to cost-effectiveness criteria until Jan. 1, 2011. Also appropriates \$10 million from the Air Quality Improvement Fund to provide grants and zero-interest loans until Jan. 1, 2011, to owners of on-road heavy-duty diesel vehicles.

**Status:** Dead.

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