

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3919

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JANUARY 16, 2020

SUMMARY

Synopsis:	Prohibits sale, lease, rent or installation of certain equipment or products containing hydrofluorocarbons or other greenhouse gases.
Type of Impact:	Annual State revenue increase. State expenditure increase.
Agencies Affected:	Department of Environmental Protection and Department of Community Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditure Increase		Marginal	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill will result in a marginal State expenditure increase arising from new administrative responsibilities for the Department of Environmental Protection (DEP) related to preparing and submitting a report to the Governor and the Legislature. However, the OLS notes that in lieu of submitting a separate report, the DEP may include the required information in the “Global Warming Response Act” report.
- The OLS estimates that the bill will increase annual State revenue collections by an indeterminate amount from the assessment of civil administrative penalties.
- The OLS estimates that this bill will result in a marginal State expenditure increase arising from new administrative responsibilities for the Department of Community Affairs (DCA) for adopting changes to the State Uniform Construction Code.

BILL DESCRIPTION

Hydrofluorocarbons (HFCs) are potent greenhouse gases used primarily as refrigerants in a variety of commercial and industrial applications. The United States Environmental Protection Agency (USEPA) and leading companies have identified the availability of safer alternatives that

do not have the same adverse climate effects as HFCs, and that are readily available and cost-effective. This bill would transition New Jersey from HFCs to replacements that have lower global warming potential and that pose lower overall risks to human health and the environment. The bill is similar to laws that were enacted in California in 2018 and Washington in May 2019.

Specifically, this bill would provide that persons may not sell, install, offer for lease, or rent restricted equipment or products in the State, in accordance with timeframes established in the bill.

The bill would require every manufacturer to disclose the HFCs and substitutes used in its products or equipment in a form and manner as determined by the DEP pursuant to rules and regulations, which may take the form of a model rule established by the United States Climate Alliance. Until such time as the DEP adopts disclosure rules, a manufacturer would be required to use labeling that provides sufficient disclosure of the use of substitutes in the product or equipment.

Except where existing equipment is retrofitted, a person would be permitted to continue using a product or piece of equipment that was manufactured prior to the effective date of a restriction. A product or equipment manufactured prior to the applicable effective date of the restriction specified in the bill could be sold, imported, exported, distributed, installed, and used after the effective date.

Under the bill, no later than one year after enactment by another state of restrictions on substitutes for new light duty vehicles, the DEP could adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light duty vehicles consistent with the restrictions identified in appendix B of Subpart G of 40 C.F.R. Part 82, as that appendix read on January 3, 2017. If the USEPA approves a previously prohibited HFC blend with a global warming potential of 750 or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the significant new alternatives policy program established pursuant to the federal Clean Air Act, the DEP could propose a rule to conform the restrictions established under the bill to the federal action.

In addition, the bill would require the DEP, no later than December 1, 2020, to prepare and submit to the Governor and the Legislature a report providing recommendations on how to increase the use of substitutes for HFCs that reduce overall risk to human health and the environment in mobile sources, utility equipment, and consumer appliances, and how to reduce other uses of HFCs in the State, including recommendations, if deemed appropriate, concerning how to structure, fund, and prioritize a State incentive program to reduce uses of HFCs in the State. The bill provides that in lieu of submitting a separate report pursuant to the bill, the DEP may include the information required to be submitted under that section in the report required pursuant to subsection c. of section 6 of the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-42).

Additionally, the DCA would be required to adopt, pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), a list of approved uses, and use conditions or use limits, if applicable, for substitutes. Each substitute, use, use condition, or use limit in the list adopted would be required to be: (1) approved under the "Significant New Alternatives Policy" program in the USEPA pursuant to 42 U.S.C. s.7671k, and approved by the DEP; or (2) approved by the DEP pursuant to the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None Received.

OFFICE OF LEGISLATIVE SERVICES

The OLS believes that there may be an indeterminate, likely nominal, increase in annual State revenue collections from the assessment of civil administrative penalties by the DEP. However, the OLS lacks the information needed to quantify any potential revenue increase from the collection of penalties. A person who violates the bill's prohibitions is subject: (1) for a first offense, to a civil administrative penalty of not more than \$10,000; (2) for a second offense, to a civil administrative penalty of not more than \$25,000; and (3) for a third or subsequent offense, to a civil administrative penalty of not more than \$50,000. Each day during which a violation continues constitutes a distinct offense.

This legislation would require the DEP to prepare and submit to the Governor and the Legislature a report providing recommendation on how to increase the use of substitutes for HFCs that reduce overall risk to human health and the environment in mobile sources, utility equipment, and consumer appliances, and how to reduce other uses of HFCs in the State. However, the OLS notes that in lieu of submitting a separate report, the DEP may include the required information in the "Global Warming Response Act" report. Thus, the OLS determines that these additional administrative duties can likely be subsumed within existing staff duties and, therefore, would result in a marginal increase in State expenditures.

Under the bill, the DEP may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light duty vehicles. In addition, the DEP may adopt disclosure rules that would require every manufacturer to disclose the HFCs and substitutes used in its products or equipment. The OLS determines that these administrative duties, if implemented, can likely be subsumed within existing staff duties and, therefore, would result in a marginal increase in State expenditures.

The Commissioner of Community Affairs would be required to adopt, pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), a list of approved uses, and use conditions or use limits, if applicable, for substitutes. Further, each item on the list would require DEP approval. The OLS determines that these additional administrative duties onto the DCA and DEP can likely be subsumed within existing staff duties and, therefore, would result in a marginal increase in State expenditures.

The OLS notes that manufacturers may have already started the process of using HFC-free alternatives as the USEPA Significant New Alternatives Policy had banned the use of HFCs in many products in 2015 and 2016. However, those federal rules were partially vacated in litigation since it was determined that the USEPA was not authorized to ban HFC refrigerants that had been approved as substitutes for "ozone depleting" substances that were being phased out in compliance with an international agreement. In response to the outcome of the litigation, several states, including California and Washington, passed legislation to ban HFC products in their state.

Except where existing equipment is retrofitted, the OLS notes that this bill would not require a business owner, homeowner, government entity, or another end user of equipment or products containing HFCs to cease using a product or equipment manufactured prior to the effective date of this bill. Thus, there would be no revenue loss to a business owner, homeowner, government entity, or another end user of equipment or products due to the enactment of this bill. Further, when a business owner, homeowner, government entity, or another end user of equipment or products containing HFC needs to replace equipment or products, there are HFC-free alternatives already available that, in most cases, are equivalently priced or cost-competitive.

Section: Environment, Agriculture, Energy and Natural Resources

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).