



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

9-11

March 24, 1997

**To:** Board of Directors (Committee on Legislation--Information)

**From:** General Manager

*JRwodvaska*

**Submitted by:** Mark D. Beuhler  
Director of Water Quality

*Mark Beuhler*

**Subject:** State Legislation Related to Methyl Tert-Butyl Ether (MTBE)

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## RECOMMENDATION

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For information only.

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## EXECUTIVE SUMMARY

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Four bills have been introduced in the California State Legislature that are directly or indirectly related to methyl tert-butyl ether (MTBE). The legislation is broad and will likely be quite controversial. It is not clear that any of the bills will be passed without revisions. Provided for board information is a description of each of the bills with copies attached.

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## DETAILED REPORT

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Senate Bill 521 (Mountjoy, Monrovia) would make it a misdemeanor to sell gasoline containing MTBE and would prohibit the State Air Resources Board (SARB) from permitting or requiring the use of MTBE in gasoline. This bill has been double referred to the Senate Committees on Environmental Quality and Transportation. The Transportation Committee is scheduled to hear the bill on April 15, 1997. SB 521 will be controversial because of the health benefits attributed to cleaner air associated with the use of MTBE in gasoline. SARB officials have stated that other toxic air contaminants such as benzene have been greatly reduced, which is equivalent to taking 3.5 million automobiles off the road.

Senate Bill 1189 (Hayden, Santa Monica) would require the California Department of Health Services (CDHS) to establish a primary drinking water standard for MTBE. The State Fire Marshall would be required to test all gasoline pipelines located within 1,000 feet of a drinking water well every two years and notify CDHS if a leak is detected. CDHS would then be required to test the well water for MTBE and, if it is present at levels above the standard, take action to protect the public and assist those "responsible for the condition of the groundwater" in developing a plan for removal of the MTBE. No deadlines are set for CDHS to set a standard and the existing standard setting provision of the law is referenced. The City of Santa Monica was approached by Senator Hayden's office to assist in drafting the legislation. The bill was referred to the Senate Committee on Environmental Quality and is scheduled for hearing on April 21, 1997.

Senate Bill 775 (Johannessen, Redding and Haynes, Murietta) would require SARB to conduct health effects studies on MTBE. These studies would examine human health risks from exposure through air and water to MTBE, aesthetic issues (including taste and odor) and environmental fate, transport and aquatic toxicity of MTBE. The bill has been assigned to the Senate Committee on Environmental Quality and is scheduled for hearing on April 21, 1997.

Assembly Bill 1491 (Cunneen, San Jose and Richter, Chico) does not specifically reference MTBE. It would require that underground storage tanks be modified to meet certain requirements by January, 1999 and would prohibit delivery of fuel to tanks after the date unless they meet certain requirements and have a compliance certificate. This legislation was probably introduced as a response to concerns regarding the State Water Resources Control Board's leaking underground fuel tank program. The bill was referred to the Assembly Committee on Environmental Safety and Toxic Materials with no hearing date set.

CEA/EGD/mi

Attachments (4)

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## **SB 521 Gasoline: MTBE.**

**BILL NUMBER: SB 521 INTRODUCED 02/24/97**

**INTRODUCED BY Senator Mountjoy**

**FEBRUARY 24, 1997**

An act to add Section 43013.1 to the Health and Safety Code, relating to gasoline.

### **LEGISLATIVE COUNSEL'S DIGEST**

SB 521, as introduced, Mountjoy. Gasoline: MTBE.

(1) Existing law does not prohibit the sale of gasoline containing methyl tertiary butyl ether (MTBE).

This bill would make it a misdemeanor to sell gasoline containing methyl tertiary butyl ether (MTBE). The bill would impose a state-mandated local program by creating a new crime. The bill would prohibit the State Air Resources Board from permitting or requiring the use of MTBE in gasoline.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 43013.1 is added to the Health and Safety Code, to read:

43013.1. (a) No person shall sell gasoline containing methyl tertiary butyl ether (MTBE). A violation of this subdivision is a misdemeanor.

(b) The state board shall not adopt any rule or regulation that permits or requires the use of MTBE in gasoline.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



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# **SB 1189 Drinking water: groundwater wells: MTBE contamination**

**BILL NUMBER: SB 1189 INTRODUCED 02/28/97**

**INTRODUCED BY Senator Hayden**

**FEBRUARY 28, 1997**

An act to add Article 7.5 (commencing with Section 116610) to Chapter 4 of Part 12 of Division 104 of the Health and Safety Code, relating to drinking water.

## **LEGISLATIVE COUNSEL'S DIGEST**

SB 1189, as introduced, Hayden. Drinking water: groundwater wells: MTBE contamination.

Existing law requires the State Department of Health Services to administer provisions relating to the regulation of drinking water and public water systems, as defined, so as to protect public health, including, but not limited to, the conduct of research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, and the adoption of primary drinking water standards for contaminants in drinking water.

Existing law authorizes the State Fire Marshal to inspect pipelines for breaks.

This bill would enact the Local Drinking water Protection Act to require the State Department of Health Services to establish a primary drinking water standard for Methyltertiarybutylether (MTBE) pursuant to prescribed provisions of existing law, and to require the State Fire Marshal to test all gasoline pipelines for leaks every 2 years if the pipeline is located within 1,000 feet of a groundwater well used for drinking water. The bill would require the State Fire Marshal to notify the State Department of Health Services if he or she detects any leak.

This bill would require the State Department of Health Services, if notified by the State Fire Marshal of a leak to test the wellwater for the presence of MTBE, and if found at levels exceeding the primary drinking water standard to take action as necessary for the protection of the public pending from the groundwater contamination removal of the MTBE from the groundwater well, and to assist persons or agencies responsible for the condition of the groundwater in the development of a plan for the removal of the MTBE.

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

SECTION 1. Article 7.5 (commencing with Section 116610) is added to Chapter 4 of Part 12 of Division 104 of the Health and Safety Code, to read:

### Article 7.5. MTBE Detection

116610. (a) This article shall be known, and may be cited, as the Local Drinking Water Protection Act.

(b) Pursuant to Section 116365, the State Department of Health Services shall establish a primary drinking water standard for Methyltertiarybutylether (MTBE).

(c) The State Fire Marshal shall test all gasoline pipelines for leaks every two years if the pipeline is located within 1,000 feet of a groundwater well used for drinking water. If the State Fire Marshal detects any leak, he or she shall notify the State Department of Health Services.

(d) If notified of a leak pursuant to subdivision (b), the State Department of Health Services shall test the wellwater for the presence of MTBE.

(e) If MTBE is found in the groundwater at levels exceeding the primary drinking water standard for that contaminant, the State Department of Health Services shall take action as necessary for the protection of the public from the groundwater contamination pending removal of the MTBE from the groundwater well. The department shall assist persons or agencies responsible for the condition of the groundwater in the development of a plan for the removal of the MTBE.

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## **SB 775 Gasoline: MTBE: study.**

**BILL NUMBER: SB 775 INTRODUCED 02/26/97**

**INTRODUCED BY Senators Johannessen and Haynes**

**FEBRUARY 26, 1997**

An act relating to gasoline, and declaring the urgency thereof, to take effect immediately.

### **LEGISLATIVE COUNSEL'S DIGEST**

SB 775, as introduced, Johannessen. Gasoline: MTBE: study.

Existing law establishes the State Air Resources Board with specified powers and duties regarding air quality.

This bill would require the state board to conduct a prescribed study, in conjunction with private industry, on the health effects of methyl tertiary butyl ether (MTBE), and to transmit the results of the study to the Governor and the Senate not later than December 31, 1999

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

SECTION 1. (a) The State Air Resources Board shall conduct a study, in conjunction with private industry, on the health effects of methyl tertiary butyl ether (MTBE).

(b) The study shall evaluate and summarize existing reports on the health effects of MTBE, including relevant studies by federal and state agencies as well as public and private research organizations, and including, in particular, MTBE studies by the National Research Council and the Health Effects Institute, as well as evaluations already performed by other states. These studies shall be examined to determine all of the following:

(1) Human health risks from exposure through air and water to MTBE, including cancer and noncancer health effects.

(2) Aesthetic issues, including taste and odor.

(3) Environmental fate, transport, and aquatic toxicity of MTBE.

(c) The study shall evaluate the health benefits resulting from the cleaner burning gasoline program, to date, including decreased population exposure to ozone, carbon monoxide, and toxic air contaminants that can be reasonably attributed to cleaner burning gasoline use. The examination of cleaner burning gasoline shall address both of the following:

(1) The air quality benefits of using MTBE, including the ability to supply California cleaner burning gasoline to meet the needs of the state.

(2) The impact of MTBE on motor vehicle emissions, mileage, and maintenance requirements.

(d) The study shall assemble and structure existing data on the occurrence of MTBE contamination in ground and surface water within the state.

(e) The study shall identify current MTBE research that is in progress and characterize the nature of these studies.

(f) Existing studies shall be peer reviewed by a panel of independent experts recognized in the fields of health effects, air quality, and vehicle performance.

(g) The State Air Resources Board shall prepare and deliver a final report, including peer review comments, to the Governor and the Senate not later than December 31, 1997.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the protection of public health, it is necessary that this act take effect immediately.

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# AB 1491 Hazardous substances: underground storage tanks.

**BILL NUMBER: AB 1491 INTRODUCED 02/28/97**

**INTRODUCED BY Assembly Members Cunneen and Richter**

**FEBRUARY 28, 1997**

An act to amend Section 25284 of, and to add Section 25292.3 to, the Health and Safety Code, relating to hazardous substances.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1491, as introduced, Cunneen. Hazardous substances: underground storage tanks.

Under existing law, with specified exceptions, no person may own or operate an underground storage tank containing hazardous substances unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

This bill would require a permit issued for an underground storage tank system that meets specified requirements to include an upgrade compliance certificate, as prescribed, that documents that the underground storage tank system meets those requirements. The bill would require the owner to place the certificate in a conspicuous location that can be readily viewed by any person depositing hazardous substances into the underground storage tank system.

The bill would prohibit any person on or after January 1, 1999, to deposit petroleum into an underground storage tank system unless the underground storage tank system meets those described requirements. The bill would specify that the display of an upgrade compliance certificate at the facility shall be considered evidence of compliance.

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

SECTION 1. Section 25284 of the Health and Safety Code is amended to read:

25284. (a) (1) Except as provided in subdivisions (c) and (d), no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

(2) If the operator is not the owner of the tank, or if the permit is issued to a person other than the owner or operator of the tank, the permittee shall ensure that both the owner and the operator of the tank are provided with a copy of the permit.

(3) If the permit is issued to a person other than the operator of the tank, that person shall do all of the following:

(A) Enter into a written agreement with the operator of the tank to monitor the tank system as set forth in the permit.

(B) Provide the operator with a copy or summary of Section 25299 in the form ~~which~~ that the board specifies by regulation.

(C) Notify the local agency of any change of operator.

(b) Each local agency shall prepare a form ~~which~~ that provides for the acceptance of the obligations of a



transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency within 30 days ~~after~~ ~~from the date that~~ the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (a) of Section 25295, upon receiving the completed form.

(c) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days ~~after~~ ~~from~~ the date of assumption of ownership to apply for an operating permit pursuant to Section 25286 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (b). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

(d) A permit issued pursuant to this subdivision for an underground storage tank installed on or before December 22, 1988, shall require compliance with Section 25292 and a permit issued pursuant to this subdivision for an underground storage tank installed after December 22, 1988, shall require compliance with Section 25291. A permit issued pursuant to this subdivision may include a schedule of compliance, when necessary, to allow a reasonable opportunity to comply with any applicable requirements of this chapter or the regulations adopted by the board implementing this chapter, if the permit requires compliance with requirements ~~which~~ ~~that~~ are ~~no~~ ~~not~~ less stringent than any federal, state, or local requirements ~~which~~ ~~that~~ apply to the underground storage tank on January 1, 1990.

(e) A permit issued pursuant to this section shall apply and require compliance with all applicable regulations adopted by the board pursuant to Section 25299.3.

*(f) A permit issued for an underground storage tank system that meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3 shall include an upgrade compliance certificate, the color, size, and content of which shall be specified by the board, that documents that the underground storage tank system meets the requirements of Section 25291 or subdivision (d) and (e) of Section 25292 and related regulations. The owner shall place the upgraded compliance certificate in a conspicuous location that can be readily viewed by any person depositing hazardous substances into the underground storage tank system.*

SEC. 2. Section 25292.3 is added to the Health and Safety Code, to read:

25292.3. On or after January 1, 1999, no person shall deposit petroleum into an underground storage tank system unless the underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3. The display of an upgrade compliance certificate at the facility shall be considered evidence of compliance.



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