

AMENDED IN SENATE JUNE 5, 2017
AMENDED IN ASSEMBLY APRIL 24, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1132

Introduced by Assembly Member Cristina Garcia

February 17, 2017

An act to add Section 42451.5 to the Health and Safety Code, relating to nonvehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, as amended, Cristina Garcia. Nonvehicular air pollution: order for abatement.

Existing law regulates the emission of air pollutants by stationary sources and authorizes the regional air quality management districts and air pollution control districts (air districts) to enforce those requirements. Existing law authorizes the governing boards and the hearing boards of air districts to issue an order for abatement, after notice and a *an abatement* hearing, whenever they find a violation of those requirements.

This bill would authorize the air pollution control officer, if ~~he or she~~ *the officer* finds that any person is causing an imminent and substantial endangerment to the public health or welfare, or the environment, by violating those requirements, to issue an interim order for abatement pending a *an abatement* hearing before the hearing board of the air district. ~~The bill would require the air pollution control officer to notify the alleged violator of the order and would establish a procedure for a postorder hearing.~~ *district. The bill would require the officer, before issuing the interim order, to make reasonable efforts to agree with the*

person on a stipulated interim order. The bill would require the officer to notify the person of issuance of an interim order or stipulated interim order and provide the person with an accusation stating the grounds for the order and procedures for challenging the order. The bill would require the air district to schedule an abatement hearing upon receipt of a defense to the accusation. The bill would permit an interim order to be rescinded or vacated by the officer or the hearing board pending final resolution of the abatement hearing, as specified.

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

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

1 SECTION 1. Section 42451.5 is added to the Health and Safety
2 Code, to read:
3 42451.5. (a) The air pollution control officer may issue an
4 interim order for abatement, pending a hearing pursuant to Section
5 42451, if the air pollution control officer finds that any person is
6 causing an imminent and substantial endangerment to the public
7 health or welfare, or the environment, by constructing or operating
8 any article, machine, equipment, or other contrivance without a
9 permit required by this part, or by violating Section 41700 or 41701
10 or any order, rule, or regulation prohibiting or limiting the
11 discharge of air contaminants into the air. ~~The order~~ *An interim*
12 *order under this subdivision or subdivision (b) shall be effective*
13 *upon the notification of the person of the issuance of the order. In*
14 *notifying the person, the air pollution control officer shall also*
15 *provide that the person with an accusation specifying the grounds*
16 *on which the order is issued and procedures by which the person*
17 *may challenge the order.*
18 *(b) Before issuing an interim order, the air pollution control*
19 *officer shall make reasonable efforts to meet and confer with the*
20 *person regarding the imminent and substantial endangerment*
21 *findings and to agree on a stipulated interim order. The person*
22 *may offer, for the officer’s consideration, any proposed alternative*
23 *measures that will prevent further imminent and substantial*
24 *endangerment.*
25 ~~(b)~~
26 *(c) Upon receipt by the district of a notice of defense to the*
27 *accusation from the person, the district shall, within 15 3 business*

1 days, set the matter for a hearing pursuant to this article, which
2 shall be held as soon as possible, but not later than 30 days after
3 the receipt of the notice.

4 *(d) The air pollution control officer may rescind an interim*
5 *order if he or she finds that the order is no longer necessary.*

6 ~~(e) The~~

7 *(e) Except as provided in subdivisions (d) and (f), an interim*
8 *order shall remain in effect until the hearing is completed and the*
9 *hearing board has made a final determination on the merits, which*
10 *shall be made within 14 days after the completion of the hearing.*
11 *If the determination is not transmitted within this period, the order*
12 *shall be of no further effect.*

13 *(f) The hearing board may vacate an interim order at any time*
14 *after the hearing has commenced if it finds that an imminent and*
15 *substantial endangerment to the public health or welfare, or the*
16 *environment, does not exist or no longer exists. Nothing in this*
17 *subdivision shall preclude the air pollution control officer from*
18 *continuing to seek an order for abatement from the hearing board.*

19 *(g) The air pollution control officer may not delegate the*
20 *authority provided by this section unless the delegation of authority*
21 *is necessary due to the absence or unavailability of the air pollution*
22 *control officer.*