

Compliance Division

Visibility Obscurant

Number 44

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Changes in State Law - Senate Bill No. 1888 Visibility Obscurant

An act to amend Section 41704 of, and to add Section 39043.5 to, the Health and Safety Code, relating to air pollution was approved July 25, 1996. A copy of Senate Bill No.1888 is attached. The effective date is January 1, 1997.

Addition of Section 39043.5

Section 39043.5 is added to the Health and Safety Code, to read: "*Obscurant*" means fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area.

Addition of (p) to Section 41704

Section 41704 of the Health and Safety Code, has been amended by the addition of (p), which states: The use of an obscurant for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation.

Please Note

It is recommended that you read this bill in its entirety and inform your staff and hearing board members, as appropriate, about the changes.

If you have any questions please call Mary Boyer, Chief, Compliance Training and Data Management Branch at (916) 322-6037.

**James J. Morgester, Chief
Compliance Division
Air Resources Board
P.O. Box 2815
Sacramento, California 95812**

jmorgest@arb.ca.gov

Senate Bill No. 1888

CHAPTER 299

An act to amend Section 41704 of, and to add Section 39043.5 to, the Health and Safety Code, relating to air pollution.

Approved by Governor July 25, 1996. Filed with
Secretary of State July 25, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1888, Mello. Air pollution: visibility obscurants.

Existing law prohibits the discharge into the atmosphere of any air contaminant of a specified shade or opacity and makes certain exceptions to that requirement.

This bill would exempt from those provisions the use of an obscurant, as defined, for the purposes of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation.

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

SECTION 1. Section 39043.5 is added to the Health and Safety Code, to read:

39043.5. "Obscurant" means fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area.

SEC. 2. Section 41704 of the Health and Safety Code is amended to read:

41704. Section 41701 does not apply to any of the following:

- (a) Fires set pursuant to Section 41801.
- (b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).
- (c) Fires set or permitted by any public officer in the performance of his or her official duty for the improvement of watershed, range, or pasture.
- (d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.
- (e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.
- (f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.
- (g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where the facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall the emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision does not apply to any rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to January 1, 1978, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels during a breakdown condition, as long as the discharge is reported in accordance with district requirements.

(l) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions are not applicable to the equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels when the emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision does not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when the emissions result from startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(o) Emissions from methanol fuel manufacturing plants which manufacture not more than 2,000,000 gallons of methanol fuel per day from wood, agricultural waste, natural gas, or coke (exclusive of petroleum coke). As used in this subdivision, "manufacturing plant" includes all necessary support systems, including field operations equipment that provide feed stock. However, this subdivision shall apply to not more than one methanol fuel manufacturing plant in each air basin and each plant shall be located in an area designated as an "attainment area" pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and shall meet all applicable standards required by the district board. This subdivision shall remain in effect with respect to a plant until five years after construction of the plant and shall have no force and effect with respect to the plant on and after that date.

(p) The use of an obscurant for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation.