



Number 190

January 2001

**RATIFICATION  
OF  
CALIFORNIA SENATE BILL 1865**

On September 28, 2000, Governor Davis approved California Senate Bill 1865. On January 1, 2001, this bill became law. This law increases several existing civil and criminal penalties for air quality violations to make them similar to penalties for water quality and hazardous waste law violations. It also reorganizes the air quality provisions so that like violations appear in the same sections. Specifically, this law:

1. Extends to January 1, 2006, the date by which the State Air Resources Board (ARB) and air quality management districts or air pollution control districts (air districts) shall adopt and implement regulations for classifying and enforcing minor violations and requires a report to the Legislature on such actions taken by the ARB on or before January 1, 2005.
2. Increases the maximum fine and penalty for provisions regarding negligent emission of air contaminant.
3. Provides that any person who negligently emits an air contaminant that causes great bodily injury is guilty of a misdemeanor and subject to a fine, imprisonment, and a civil penalty.
4. Provides that any person who emits an air contaminant that causes great bodily injury and who knew of the emissions and failed to take corrective action within a reasonable time is guilty of a misdemeanor and subject to a specific fine and penalty.
5. Increases the maximum allowable fine and civil penalty for willful and intentional emissions of air contaminants.
6. Makes any willful, intentional or with reckless disregard emission of an air contaminant that causes an unreasonable risk of death or injury, a misdemeanor and subject to \$125,000 fine (\$500,000 fine for corporate violators) and/or imprisonment.
7. Makes any willful, intentional or with reckless disregard emission of an air contaminant that causes great bodily injury or death an alternate felony/misdemeanor and subject to \$250,000 fine (\$1,000,000 fine for corporate violators) and/or imprisonment.
8. Exempts from the requirement that the filing of a criminal complaint requires the dismissal of any civil action for the same offense any portion of the civil action requesting injunctive relief.
9. Requires the court to consider specific circumstances when considering the amount of

criminal fine to impose on a violator of specific air pollution provisions.

- 10. In situations where any person knowingly, and with the intent to deceive, falsifies any document required to be kept, increases the maximum allowable civil penalty, and provides that the person is guilty of a misdemeanor and subject to a fine and imprisonment.
- 11. Increases the fines and penalties for any person who knowingly renders inaccurate any monitoring device required by air toxic rules.

The following chart compares some of the major changes of the existing law:

<b><u>SB 1865 PENALTY COMPARISON</u></b>			
	<b><u>Under the old Air Quality Law:</u></b>	<b><u>Under SB 1865:</u></b>	<b><u>Imprisonment</u></b>
<b><u>General Violations, Criminal</u></b> (Section 42400)			
Basic Violation	\$ 1,000	\$ 1,000	six months
Actual injury to health/safety of a large number of persons or the public	\$ 15,000	\$ 15,000	nine months
<b><u>Negligence, Criminal</u></b> (Section 42400.1)			
Basic Violation (misdemeanor)	\$ 15,000	\$ 25,000	nine months
Causing actual injury/ <u>great bodily injury or death</u> (misdemeanor)	\$ 15,000	\$ 100,000	one year
<b><u>Failure to Take Corrective Action, Criminal</u></b> (Section 42400.2)			
Basic Violation	\$ 25,000	\$ 40,000	one year
Actual injury/ <u>great bodily injury or death</u>	\$ 25,000	\$ 250,000	one year
	<b><u>Under Current Air</u></b>	<b><u>Under</u></b>	<b><u>Imprisonment</u></b>

	<u>Quality Law:</u>	<u>SB1865:</u>	
<u>Violation of Air Contaminant Emittance, Misdemeanor</u> (Section 42400.3) (Adds reckless disregard for the risk to current law)			
Basic Violation	\$ 50,000 (misdemeanor)	\$ 75,000 (misdemeanor)	one year
Causing unreasonable risk of great bodily injury or death	\$ 50,000 (misdemeanor)	\$ 125,000 (misdemeanor) \$500,000 maximum for a corporation.	one year
Causing great bodily injury or death	\$ 50,000 (misdemeanor)	\$ 250,000 for an individual. \$ 1,000,000 maximum for a corporation. (alternate felony/ misdemeanor)	one year or 16 months, or 2 or 3 years (state prison)
<u>Falsification of Documents/</u> (Section 42400.3.5)			
False material statement	\$25,000 (misdemeanor)	\$ 35,000 (misdemeanor)	nine months
<b><u>CIVIL FINES</u></b> (Sections 42402 - 42402.4)			
SB 1865 establishes civil fines in similar amounts as the above for the same conduct. However, the prosecution must elect between criminal or civil fines. No double recovery is permitted.			

For your reference, the complete revised sections can be reviewed at the following web site address: <http://www.sen.ca.gov>. Previously issued Compliance Division advisories can be found at the following web site address: <http://www.arb.ca.gov/cd/advice.htm>.

Please note that this advisory is a summary of the new law. Refer to the appropriate Health and Safety Codes for the exact legal language.

If you have questions regarding this advisory, please contact James J. Morgester, Chief of the Compliance Division at 916-322-6022. Written inquiries may be addressed to:

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