

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 982 (Wiener)
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AWM

SUBJECT

Climate disasters: civil actions

DIGEST

This bill permits the Attorney General to bring a civil action in the name of the people of the State of California, as *parens patriae*, against fossil fuel companies that meet specified criteria, to recover damages on behalf of the FAIR Plan Association (FAIR Plan) and policyholders in the state that were caused by climate events that resulted from, or made worse by, climate change; and prohibits a fossil fuel company from passing on the costs of the civil action, including any remedies ordered, to the people of California.

EXECUTIVE SUMMARY

According to California's Fourth Climate Change Assessment, by 2100, the average annual maximum daily temperature is projected to increase by 5.6 to 8.8°F, water supply from snowpack is projected to decline by two-thirds, the average area burned in more frequent wildfires could increase by 77 percent, with wildfire costs insurance estimated to rise by 18 percent by 2055, and 31 to 67 percent of Southern California beaches may completely erode without large-scale human intervention, all under business-as-usual and moderate greenhouse gas (GHG) emissions. According to the United Nations, fossil fuels—coal, oil, and gas—are by far the largest contributor to global climate change, accounting for over 75 percent of global GHG emissions and nearly 90 percent of all carbon dioxide emissions.

Climate change is already harming Californians. Since 2016, California has experienced devastating wildfires and other natural disasters of unprecedented size and frequency. Victims of these extreme disasters lose their homes, their livelihoods, and sometimes their lives. The increased rate and severity of natural disasters is also radically changing the property insurance market: the increased risk of damage from wildfires and other natural disasters is now so significant, some insurers are entirely unwilling to

write property insurance policies in parts of California, or demand premiums far above what an average California can afford. This has put extreme stress on the FAIR Plan, a syndicated insurance pool established as the “insurer of last resort” for Californians who were unable to find property insurance. The number of Californians obtaining coverage through the FAIR Plan has more than tripled since 2020, straining the FAIR Plan’s financial health.

This bill is intended to force fossil fuel companies to bear a fairer share of the costs caused by GHG emissions, specifically, the losses suffered by the FAIR Plan and Californians in need of property insurance. To that end, this bill authorizes the Attorney General to file a suit in the name of California, as *parens patriae*, against fossil fuel companies and recover losses incurred by the FAIR Plan and policyholders as a result of a climate disaster that was caused or made worse, at least in part, by climate change. The recovery under the bill is limited to insurance-related harms: costs and losses incurred by the FAIR Plan, including an assessment imposed on FAIR plan members, and insurance-related costs incurred by Californians.

This bill authorizes the Attorney General to file a suit in the name of California, as *parens patriae*, against fossil fuel companies and recover losses incurred by the FAIR Plan and policyholders as a result of a natural disaster caused, or made worse, by climate change. The recovery under the bill is limited to insurance-related harms: costs and losses incurred by the FAIR Plan, including an assessment imposed on FAIR plan members, and insurance-related costs incurred by Californians. Only fossil fuel companies with a market capitalization or annual revenue of \$500 million or more may be sued, and the bill permits liability to be apportioned among fossil fuel companies based on their market share. The bill also prohibits a fossil fuel company from passing on the costs of the lawsuit to consumers, as specified.

This bill is sponsored by California Environmental Voters, the Center for Climate Integrity, and Extreme Weather Survivors, and is supported by over 80 organizations and 19 individuals. This bill is opposed by over 120 organizations. If this Committee passes this bill, it will be referred to the Senate Insurance Committee.

PROPOSED CHANGES TO THE LAW

Existing constitutional law:

- 1) Provides that no person shall be deprived of life, liberty, or property without due process of law. (U.S. Const., 5th & 14th amends.; Cal. Const., art. I, § 7.)
- 2) Provides that the United States Constitution, the laws of the United States, and all treaties made under the authority of the United States are the supreme law of the land. (U.S. Const., art. VI, cl. 2.)

Existing state law:

- 3) Establishes the California Global Warming Solutions Act of 2006, which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California, and that action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act. (Health & Saf. Code, div. 25.5, §§ 38500 et seq.)
- 4) Requires, as part of the California Global Warming Solutions Act of 2006, the California Air Resources Board (CARB) to determine the 1990 statewide GHG emissions level and approve a statewide GHG emissions limit that is equivalent to that level to be achieved by 2020. (Health & Saf. Code, § 38550.)
- 5) Requires CARB to ensure that statewide GHG emissions are reduced to at least 40 percent below the 1990 level by December 31, 2030, and allows CARB, until December 31, 2030, to adopt regulations that utilize market-based compliance mechanisms (i.e., the cap-and-trade program) to reduce GHG emissions. (Health & Saf. Code, §§ 38562, 38566.)
- 6) Establishes the FAIR Plan to provide for the equitable distribution, among insurers licensed to write and engaged in writing in this state basic property insurance policies, of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market; persons who, after diligent effort, are unable to procure insurance through normal channels, can apply for and obtain basic property insurance coverage from the FAIR Plan. (Ins. Code, §§ 10090, 10094.)
- 7) Defines “basic property insurance,” for purposes of the FAIR Plan, to include insurance against direct loss to real or tangible personal property at a fixed location in designated areas from perils insured under the standard fire policy and extended coverage endorsement, among other types of damages. (Ins. Code, § 10091.)
- 8) Permits the FAIR Plan, with the approval of the Commissioner of the Department of Insurance (Commissioner), to assess all member-insurers in amounts sufficient to operate the FAIR Plan. (Ins. Code, § 10094(c).)
- 9) Provides that rates for the FAIR Plan shall not be excessive, inadequate, or unfairly discriminatory, and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses, and taxes, and shall reflect investment income of the plan. (Ins. Code, § 10100.2(a).)
- 10) Provides that, with the approval of the Commissioner, the FAIR Plan may enter into loan agreements with the California Infrastructure and Economic Development

Bank or make other financing agreements, as specified. (Ins. Code, § 10100.3; *see also* Gov. Code, § 63049.75.)

This bill:

- 1) Makes findings and declarations relating to climate change, climate disasters in California, the FAIR Plan and California policyholders, and fossil fuel companies' campaign to conceal evidence that their products caused climate change.
- 2) States that it is the intent of the Legislature to establish express statutory mechanisms to authorize the Attorney General to obtain relief for climate-attributable damage occurring on or after January 1, 2026, from covered entities, as defined. These express statutory mechanisms are in addition to, and supplement, existing legal authority retained by the Attorney General.
- 3) Defines the following terms:
 - a) "Affiliated entity" means any entity under common ownership or control with another entity, if the relationship is financial in nature, including through consolidated financial reporting or the enhancement of profitability for the parent entity.
 - b) "Climate disaster" means an event for which climate change was a substantial factor in contributing to the event's frequency, severity, location, timing, or extent. "Climate disaster" includes, but is not limited to, a wildfire, heat wave, drought, windstorm, hurricane, tornado, or other storm.
 - c) "Covered entity" means a firm, corporation, company, partnership, society, joint stock company, or any other affiliated entity that meets all of the following criteria:
 - i. Has an aggregate market capitalization or worldwide annual revenue across the parent entity and all affiliated entities of at least \$500 million, determined by an average capitalization or revenue over the preceding three years.
 - ii. Has been or is engaged in the extraction, production, manufacture, or sale at wholesale of covered fossil fuel products.
 - iii. Does or did business in this state, was registered to do business in this state, was appointed an agent of this state, or otherwise had sufficient contacts with this state to be subject to this state's jurisdiction.
 - iv. Does not include a tribal or state government, a political subdivision of a tribal or state government, or an employee of the tribal or state government on the basis of acts or omissions in the course of official duties.
 - d) "Covered fossil fuel product" includes crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form by ordinary production methods, including natural, manufactured, mixed, and byproduct hydrocarbon gas, refined crude oil,

- crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, kerosine, benzine, wash oil, waste oil, blended gasoline, lubricating oil, and blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas. A "covered fossil fuel product" does not include "used oil" or "recycled oil products," as those are defined in specified provisions of the Public Resources Code.
- 4) Permits the Attorney General to bring a civil action in the name of the people of the State of California, as *parens patriae*, against a covered entity for recovery of climate-attributable damage, including any of the following:
 - a) Recovery of all costs and losses incurred by the FAIR Plan, including recovery of an assessment imposed on member insurers of the FAIR Plan, as specified, or funds the FAIR Plan borrows, plus interest on that debt amount, from the California Infrastructure and Economic Development Bank, as specified.
 - b) Recovery of costs and losses incurred by insurance policyholders, including real property measures to obtain or maintain insurance coverage at fair market value, an increase in insurance premiums, a higher cost of coverage through a nonadmitted insurer, an insurer withdrawal from the market, a reduction in coverage availability, or cessation of the issuance of new residential property insurance policies.
 - 5) Provides that the Attorney General, in an action under 3), may recover or obtain any of the following relief:
 - a) All climate-attributable damages described in 3).
 - b) Court costs, litigation expenses, and reasonable attorney's fees.
 - c) Any other relief that the court or jury deems proper.
 - 6) Provides that, notwithstanding any other law, a covered entity shall be strictly liable without regard to fault for relief afforded under 3).
 - 7) Provides that the court and jury may use market share and alternate liability principles to determine the proportionate liability of a covered entity for climate-attributable damage.
 - a) In evaluating market share liability for actions brought under 3), "covered fossil fuel products" are a fungible product class.
 - b) Market share shall be determined by the extent of a covered entity's worldwide market capitalization or annual revenue; however, international entities that are not subject to the state's jurisdiction are not necessary parties for purposes of satisfying a "substantial percentage" market share liability threshold.

- c) Covered entities may cross-complain against or implead other parties for modifications to proportionate market share liability.
- 8) Provides that, notwithstanding any other law, it is unlawful for a covered entity or an affiliated entity to recover from California consumers, through retail or wholesale prices, charges, fees, surcharges, or any other adjustment to the price of gasoline or other motor fuels, any costs and expenses incurred in connection with a civil action under 2).
 - a) The prohibition in 8) shall apply for the duration of the civil action or 24 months following final judgment or settlement, whichever is longer.
 - b) A violation of 8) shall constitute an unlawful business practice within the meaning of the Unfair Competition Law (UCL) (Bus. & Prof. Code, div. 7, pt. 2, ch. 5, §§ 17200 et seq).
- 9) Provides that, for purposes of 8), the following definitions apply:
 - a) "Costs and expenses incurred in connection with a civil action" includes all of the following:
 - i. Legal fees, expert costs, and other litigation expenses.
 - ii. Settlements and judgments.
 - iii. Costs of compliance with any relief awarded under 5).
 - b) "Costs and expenses incurred in connection with a civil action" do not include an increase in price for which a covered entity proves, by a preponderance of the evidence, both of the following:
 - i. The increase is directly attributable to additional costs imposed on it by a supplier, or directly attributable to additional costs for labor materials.
 - ii. The price is no more than 10 percent greater than the total of the cost to the seller for the gasoline or motor fuel in the usual course of business immediately before the filing of the civil action.
 - c) "Gasoline" has the same meaning as defined in Penal Code section 396(j), and includes any gasoline blending component, diesel fuel, and renewable fuel.
- 10) Creates the Attorney General Climate Disaster Fund as an account in the State Treasury.
 - a) All monetary relief recovered by the Attorney General under this bill shall be deposited into the account.
 - b) Funds in the account shall be expended by the Attorney General for investigations, civil actions, and enforcement pursuant to this bill.
 - c) Funds in the account shall be used exclusively for the purposes described herein upon appropriation by the Legislature.
- 11) Provides that monetary relief recovered under the bill shall be distributed in the following order:

- a) Payments to policyholders or insureds, and to cover claims administration costs.
- b) Payments to the FAIR Plan for climate-attributable damage and to meet its outstanding payment obligations to the California Infrastructure and Economic Development Bank on funds borrowed, as specified.
- c) Payments to the California Safe Homes grant program, as defined, to improve insurability and resilience of vulnerable communities and reimbursable eligible property-level hazard mitigation and adaptation projects.
- d) Costs of suit and attorney's fees awarded pursuant to 4)(b).
- e) Enforcement of an existing right, action, or remedy available under any other law.

12) Provides that this bill does limit or affect any of the following:

- a) Enforcement of an existing right, action, or remedy available under any other law.
- b) Mandated disaster recovery funds, designated disaster recovery funds established by legislation or administrative rule, or mandated insurance claim payouts.
- c) Impair, expand, or otherwise modify the powers and duties of the Insurance Commissioner under the Insurance Code, as specified.
- d) Relieve the liability or enforcement under any other law of an entity for damages provided by any other law.
- e) Impose liability on speech or conduct protected by the First Amendment to the United States Constitution, as made applicable to the states through the Fourteenth Amendment to the United States Constitution, or by Section 2 of Article I of the California Constitution.

13) Provides that the entry of judgment in an action brought under this bill shall not bar a pending or future claim or action by the state or a subdivision thereof against a party that is potentially liable for climate harms due to the party's misleading or deceptive practices of the provision of misinformation or disinformation about the connection between fossil fuel products and climate change.

14) Includes a severability clause.

COMMENTS

1. Author's comment

According to the author:

Californians are paying a devastating price for the climate crisis, as destructive disasters destroy entire communities and drive insurance costs through the roof. Containing these costs is critical to our recovery and to the future of our state. SB

982 addresses the state's growing home insurance crisis by strengthening the Attorney General's legal tools to fight on behalf of California communities following an extreme weather disaster. It would help stabilize the state's insurer of last resort (FAIR Plan), provide relief to consumers from the pass-through costs of extreme weather events, and secure resources to help low-income homeowners and communities become more wildfire-resilient through safer roofs, landscaping improvements, and other mitigation projects. By forcing the fossil fuel companies driving the climate crisis to pay their fair share for escalating insurance costs, we can stabilize our insurance market and help the victims of climate disasters recover.

Californians are already paying the price for devastating wildfires, atmospheric rivers, rain bombs, mud slides, and skyrocketing insurance costs that make our communities unaffordable and even less prepared for the next major disaster. But California ratepayers and taxpayers should not be responsible for 100% of the damage wrought by extreme weather and the climate crisis. Major fossil fuel companies intentionally misled the public for decades about the well-known impacts of their products, and now the escalating costs of climate disasters and extreme weather are pushing families to the brink of financial ruin and making life unaffordable in many parts of the state. A recent UCLA poll found that 1 in 5 California homeowners are risking financial ruin by going without home insurance as premiums rise and insurers flee the state. Survivors of extreme weather, victims of climate disasters, and future generations are counting on us to protect the California Dream before it goes fully up in smoke.

2. Background on climate change

The years 2015 through 2025 were the warmest on record¹ – so far. Four months into 2026, heat records have already been broken all over Southern California,² and “[w]ith zero depth and zero water content, this year’s annual April snow survey conducted at Phillips Station[] was the second worst on record.”³ The cause of this global warming is clear:

Human activities, principally through the emissions of greenhouse gases, have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850-1900 [average temperatures] in

¹ Fieldhouse & Basu, *The world just lives through the 11 hottest years in record – what now?* (Mar. 23, 2026) Nature, available at <https://www.nature.com/articles/d41586-026-00946-6>. All links in this analysis are current as of April 10, 2026.

² Garske, *This week's heat wave smashed Southern California records. See the sizzling stats* (Mar. 20, 2026) NBC Los Angeles, <https://www.nbclosangeles.com/weather-news/march-2026-heat-wave-southern-california-records-broken/3864340/>.

³ Canon, *'On a whole other level': rapid snow melt-off in American west stuns scientists* (Apr. 1, 2026) The Guardian, <https://www.theguardian.com/us-news/2026/apr/01/snowmelt-american-west>.

2011-2020. Global greenhouse gas emissions have continued to increase, with unequal historical and ongoing contributions arising from unsustainable energy use, land use and land-use change, lifestyle and patterns of consumption and production across regions, between and within countries, and among individuals.⁴

Thanks to climate change, by 2100 in California, the average annual maximum daily temperature is projected to increase by a range of 5.6 to 8.8°F; water supply from snowpack is projected to decline by two-thirds; the average area burned in more frequent wildfires could increase by 77 percent; and 31 to 67 percent of Southern California beaches may completely erode without large-scale human intervention – assuming only business-as-usual and moderate GHG emissions.⁵

It didn't have to be this way. The theory of anthropogenic (i.e., human-caused) global warming dates all the way back to the 19th century.⁶ It wasn't until the 20th century, however, that scientists were confident enough in their measurements to predict climate change with certainty. The United States government discussed the possibility of climate change from GHGs beginning in the 1960s, including the likelihood of increased global temperatures, the melting of the Antarctic ice cap, rising sea levels, and increased acidity of fresh waters.⁷ In 1988, a NASA scientist testified before Congress that “it was 99 percent certain that the warming trend was not a natural variation but was caused by a buildup of carbon dioxide and other artificial gases in the atmosphere.”⁸ Fossil fuel companies' scientists found the same thing.⁹ But rather than listen to their scientists, fossil fuel companies embarked on a decades-long campaign of climate change denial, manufacturing doubt about the science and turning the issue into a “debatable” one.¹⁰

With the plausible deniability manufactured by fossil fuel companies, many governments – particularly the United States government – more or less continued business as usual rather than implement meaningful policies to prevent severe climate

⁴ Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report, Summary for Policymakers* (2023) p. 4, available at https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf.

⁵ See California's Fourth Climate Change Assessment, *Statewide Summary Report* (2018) *passim*, available at https://www.energy.ca.gov/sites/default/files/2019-11/Statewide_Reports-SUM-CCCA4-2018-013_Statewide_Summary_Report_ADA.pdf.

⁶ Thompson, *How 19th-Century Scientists Predicted Global Warming* (Dec. 17, 2019) JStor Daily, <https://daily.jstor.org/how-19th-century-scientists-predicted-global-warming/>.

⁷ E.g., The White House, *Restoring the Quality of Our Environment: Report of the Environmental Pollution Panel* (Nov. 1965) pp. 111-131.

⁸ Shabecoff, *Global Warming Has Begun, Expert Tells Senate* (June 24, 1988) *New York Times*, Section A, p. 1, available at <https://www.nytimes.com/1988/06/24/us/global-warming-has-begun-expert-tells-senate.html>.

⁹ Revkin, *Industry Ignored Its Scientists on Climate* (Apr. 23, 2009) *New York Times*, available at <https://www.nytimes.com/2009/04/24/science/earth/24deny.html>.

¹⁰ E.g., Readfearn, *Doubt over climate science is a product with an industry behind it* (Mar. 5, 2015) *The Guardian*, <https://www.theguardian.com/environment/planet-oz/2015/mar/05/doubt-over-climate-science-is-a-product-with-an-industry-behind-it>.

change. America's official approach to climate change shifted with presidential administrations: Democratic presidents tended to give credence to climate science while still pursuing inadequate policies to prevent the worst of the warming; Republican presidents tended to deny the fact of climate change altogether and push the country toward even greater fossil-fuel consumption. The current administration goes beyond climate-science denial and is outright hostile to any technology that *doesn't* spew GHGs. They have shut down public and private projects for renewable energy generation;¹¹ forced coal plants to keep running when literally everyone, even the owners, wanted them to shut down;¹² and used the increased oil prices from the war with Iran as a pretense to waive Endangered Species Act protections for endangered species in the Gulf of Mexico, thereby clearing the way for more drilling.¹³ Some states, including California, have taken serious measures to reduce GHG emissions within their own borders, but these have not been enough to prevent the global temperature from exceeding the Paris Agreement's goal of keeping warming below 1.5° Celsius over pre-industrial levels.¹⁴

As the climate picture grows increasingly desperate, climate activists have pursued lawsuits and state-level litigation under novel legal theories. A group of youths residing in Montana sued the state for violating the Montana Constitution's guarantee of a "clean and healthful environment"; the Montana Supreme Court upheld the trial court's order that Montana, consistent with that guarantee, had to evaluate GHG emissions as part of its environmental review process.¹⁵ The County of Boulder sued Exxon Mobile and certain of its subsidiaries in an action alleging claims for public nuisance, private nuisance, trespass, unjust enrichment, and civil conspiracy, all predicated on the theory that Exxon and its subsidiaries "*knowingly* caused and contributed to the alteration of the climate by producing, promoting, refining, marketing, and selling fossil fuels at levels that have caused and continue to cause climate change, while concealing and/or misrepresenting the dangers associated with

¹¹ E.g., Blum, *Trump despises wind farms so much he's paying a French energy giant \$1 billion to stop building them and invest in natural gas instead* (Mar. 23, 2026) *Fortune*, <https://fortune.com/2026/03/23/total-energies-offshore-wind-natural-gas-trump-agreement/>; Noor, *Trump officials cancel major solar project in latest hit to renewable energy* (Oct. 10, 2025) *The Guardian*, <https://www.theguardian.com/us-news/2025/oct/10/trump-officials-drop-major-solar-power-project-in-another-renewable-energy-attack>.

¹² E.g., Brasch, *The owners want to close this Colorado coal plant. The Trump administration says no* (Dec. 23, 2026) *NPR*, <https://www.npr.org/2026/02/23/g-s1-110980/trump-coal-energy-colorado>; Brown & Stevens, *Coal and Gas Plants Were Closing. Then Trump Ordered Them to Keep Running* (June 6, 2025) *New York Times*, available at <https://www.nytimes.com/2025/06/06/climate/trump-coal-gas-plants-energy-emergency.html>.

¹³ Guardian staff, *'God squad' waives endangered species law to allow US drilling in Gulf of Mexico* (Mar. 31, 2026) *The Guardian*, <https://www.theguardian.com/us-news/2026/mar/31/gulf-of-mexico-drilling-endangered-species>.

¹⁴ McCabe, *World exceeds 1.5°C threshold for entire year for the first time* (Jan. 10, 2025) *Royal Meteorological Society, MetMatters*, <https://www.rmets.org/metmatters/world-exceeds-15degc-threshold-entire-year-first-time>.

¹⁵ See *Held v. State* (Mont. 2024) 560 P.3d 1235, 1260.

fossil fuels' intended use."¹⁶ And here in California, Attorney General Rob Bonta has filed a lawsuit against Exxon Mobil, Shell, Chevron, Conoco Phillips, BP, and the American Petroleum Institute asserting a number of claims arising out of the oil companies' deliberate concealment of climate science, the relationship between fossil fuels and climate change, and the rapidly closing window for taking action to avoid the worst-case climate scenarios.¹⁷ The case is currently on pause while the court considers whether to grant a stay pending the Supreme Court's decision in *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*; the *Suncor Energy* case is discussed further in Comment 5.

3. Background on the FAIR plan

The "FAIR Plan is a syndicated fire insurance pool comprised of all insurers licensed to conduct property/casualty business in California."¹⁸ The FAIR Plan dates back to 1968, when the Legislature established the Plan "to provide property insurance to the otherwise uninsurable."¹⁹ The FAIR Plan is not, itself, an insurer; instead, the statutory scheme requires "all insurers authorized to write and engage in writing in California, on a direct basis, basic property insurance or a component thereof" to "make available basic property insurance to any persons having an interest in real or tangible property who, after diligent effort, are unable to procure such insurance through the normal channels from an admitted insurer."²⁰ Member-insurers in the FAIR Plan allocate profits and losses arising from the FAIR Plan.²¹ Rates set for FAIR Plan coverage "shall not be excessive, inadequate, or unfairly discriminatory, and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the plan."²² FAIR Plan coverage is, however, more minimal than commercially available insurance. The FAIR Plan has always operated at a loss.²³

As climate change has increased the number and severity of natural disasters in the state – particularly wildfires – insurers have increasingly been unwilling to write

¹⁶ *County Commissioners of Boulder County v. Suncor Energy USA, Inc.* (Colo., May 12, 2025) –P.3d –, 2025 WL1363355, *2, cert. granted *sub nom.* Feb. 23, 2026, –S.Ct. –, 2026 WL 490537 (internal quotation marks omitted).

¹⁷ See Amended Complaint, *Fuel Industry Climate Cases*, Case No. CJC-24-005310. For example, the Amended Complaint alleges that Exxon executives were told in 1977 that "[p]resent thinking holds that man has a time window of five to ten years before the need for hard decisions regarding changes in energy strategies might become critical." (*Id.* at ¶ 48 (internal quotation marks omitted, alteration in original).)

¹⁸ California Fair Plan Property Insurance, About the California Fair Plan, <https://www.cfpnet.com/about-fair-plan/>.

¹⁹ Cornblum, 1 Cal. Ins. Law Dictionary & Desk Ref. (2025 ed.) § C1.

²⁰ *Ibid.*; Ins. Code, § 10094.

²¹ Ins. Code, § 10095.

²² *Id.*, § 10100.2.

²³ See *St. Cyr v. California FAIR Plan Assn.* (2014) 223 Cal.App.4th 786, 794.

regular property insurance policies, pushing more Californians into the FAIR Plan. The annual FAIR Plan policies in the state are as follows:²⁴

Year	FAIR Plan policies
2018	126,709
2019	160,302
2020	209,874
2021	242,318
2022	271,327
2023	330,275
2024	464,900
2025	668,609

As of December 2025, the FAIR Plan's total exposure is \$724 billion, a 230 percent increase since September 2022.²⁵

The January 2025 Eaton and Palisades fires were “the worst catastrophe[s] in decades to hit the FAIR Plan.”²⁶ In February 2025, the FAIR Plan announced that it would run out of funds by March.²⁷ To prevent the FAIR Plan from collapsing, Insurance Commissioner Ricardo Lara approved a \$1 billion assessment on the FAIR Plan member companies; the members, in turn, charged their policyholders temporary fees to cover the costs.²⁸

Some Californians report simply not purchasing home insurance rather than relying on the FAIR Plan. A UCLA poll found that more than one in five California homeowners “have dropped their home insurance because their policies were canceled or premiums have become unaffordable.”²⁹

²⁴ California Fair Plan Property Insurance, Key Statistics & Data, <https://www.cfpnet.com/key-statistics-data/>; California Fair Plan Property Insurance, About the FAIR Plan, https://ains.assembly.ca.gov/sites/ains.assembly.ca.gov/files/FAIR%20Plan-Factsheet-2.23.23.pdf?mf_ct_campaign=aol-synd-feed. The two facts sheets, published in different years, had slightly different policy numbers for 2022, so this analysis lists the number from the more recently published fact sheet.

²⁵ California Fair Plan Property Insurance, Key Statistics & Data, *supra*.

²⁶ Darmiento, *California FAIR Plan continues denying smoke damage claims despite court loss and regulatory action* (Sept. 8, 2025) Los Angeles Times, <https://www.latimes.com/business/story/2025-09-08/despote-court-loss-california-fair-plan-sticking-to-disputed-smoke-damage-policy>.

²⁷ Sumagaysay, *California homeowners will have to fund half of high-risk insurer's \$1 billion 'bailout'* (Feb. 11, 2025; updated Feb. 19, 2025) CalMatters, <https://calmatters.org/economy/2025/02/homeowners-insurance-costs-rising-in-california-fair-plan/>.

²⁸ *Ibid.*

²⁹ UCLA Luskin School of Public Affairs, *Some Homeowners Are Going Without Insurance But Choosing to Stay Put* (Jan. 21, 2026) <https://luskin.ucla.edu/some-homeowners-are-going-without-insurance-but-choosing-to-stay-put>.

4. This bill authorizes the Attorney General to sue fossil fuel companies to recover damages incurred by the FAIR Plan and FAIR Plan insureds arising from a natural disaster made worse by climate change

Currently, fossil fuel companies profit from the sale of fossil fuels while the harms caused by their products are largely externalized, i.e., borne by the public at large. This bill is intended to force fossil fuel companies to bear a fairer share of the costs caused by GHG emissions, specifically, the losses suffered by the FAIR Plan and Californians in need of property insurance. To that end, this bill authorizes the Attorney General to file a suit in the name of California, as *parens patriae*,³⁰ against fossil fuel companies to recover losses incurred by the FAIR Plan and policyholders as a result of a climate disaster that was caused or made worse, at least in part, by climate change. The recovery under the bill is limited to insurance-related harms: costs and losses incurred by the FAIR Plan, including an assessment imposed on FAIR plan members, and insurance-related costs incurred by Californians.

The bill's definitions delineate when, and against whom, the Attorney General may file a suit to recover climate-change-related losses:

- A "climate disaster" is an event for which climate change was a substantial factor in contributing to the event's frequency, severity, location, timing, or extent, and can include a wildfire, heatwave, drought, flood, or storm. The bill allows the Attorney General to seek the cost of climate-attributable damage caused by a climate disaster, meaning the Attorney General cannot recover the full amount of damage caused by a natural disaster, but rather only the portion of the damage that occurred as a result of climate change making the natural disaster worse. So, e.g., if the jury determines that a wildfire would have happened with or without climate change, but it was made 20 percent more severe as a result of climate change, the jury would determine the total amount of the recoverable losses incurred as a result of the fire and award 20 percent of that amount as damages.
- A fossil fuel company may be sued under this bill if it is a "covered entity," which requires that the company, on its own or along with other entities under common ownership or control, (1) has an aggregated or worldwide market capitalization of at least \$500 million over the last three years; (2) has been or is engaged in the extraction, production, manufacture, or sale at wholesale of covered fossil fuel products (which are also defined); and (3) did or does business in this state, or is otherwise subject to this state's jurisdiction. The definition of "covered entity" excludes tribal and state governments or any subdivisions thereof.

³⁰ "The doctrine of *parens patriae* allows a sovereign to bring suit on behalf of its citizens when the sovereign alleges injury to a sufficiently substantial portion of its population, articulates an interest apart from the interests of particular parties, and expresses a quasi-sovereign interest." (*Washington v. Chimeí Innolux Corp.* (9th Cir. 2011) 695 F.3d 842, 847.)

In addition to the above, the bill includes two provisions relating to the imposition and apportionment of liability. First, the bill provides for strict liability: if a fossil fuel company is found to be a “covered entity” and the jury finds that the FAIR Plan or policyholders incurred losses as a result of a climate disaster, the fossil fuel company will be automatically liable for those costs – the Attorney General will not need to prove that the fossil fuel company acted negligently or otherwise culpably. The strict liability mechanism is tempered somewhat by the bill’s provision for the apportionment of damages using market share principles. Under this provision, the court or jury could divide up the total amount of damages among the defendants on the basis of each defendant’s total market share of the worldwide fossil fuels market. The bill also allows a defendant to implead other fossil fuel companies to ensure a more proportional distribution of damages. However, because some of the world’s largest fossil fuel companies are sovereign entities and likely outside the state’s jurisdiction,³¹ fossil fuel companies found liable under this bill will still likely be responsible for damages greater than their proportional market share.

Finally, this bill prohibits a fossil fuel company from passing on the costs of a suit, including any damages award, to consumers in the state, for a period of the longer of (1) the duration of the lawsuit, or (2) 24 months from the entry of judgment in the lawsuit. A violation of this prohibition constitutes a violation of the UCL. The bill also establishes an affirmative defense for a fossil fuel company that raises prices during the covered window, allowing the fossil fuel company to avoid a UCL judgment if it proves that the price increase is directly attributable to additional costs from a supplier, labor, or materials, and the price is no more than 10 percent greater than the total cost to the seller for the gasoline or motor fuel in the usual course of business.

5. Legal issues

a. Preemption

Some of the bill’s opponents have argued that the Clean Air Act (CAA) preempts state efforts to hold fossil fuel companies liable for the harms caused by GHG emissions. This is an open legal question. The United States Court of Appeal for the Second Circuit held that such state efforts are preempted, stating that “[g]lobal warming presents a uniquely international problem of natural concern” and “is therefore not well-suited to the application of state law.”³² The Colorado Supreme Court, on the other hand, held that the County of Boulder could assert several state law claims

³¹ See, e.g., Reiff, 10 Biggest Oil Companies, Investopedia (updated Dec. 8, 2025) <https://www.investopedia.com/articles/personal-finance/010715/worlds-top-10-oil-companies.asp>; Aramco, About: Our parent company & affiliates, <https://americas.aramco.com/en/who-we-are/about/our-parent-company-and-affiliates>.

³² *City of New York v. Chevron Corp.* (2d Cir. 2021) 993 F.3d 81, 85-86.

against Exxon and its subsidiaries, on the ground that the CAA did not expressly or implicitly preempt state tort laws relating to air pollution.³³

This preemption question will not remain open for long. In February of this year, the United States Supreme Court granted a petition for certiorari in the County of Boulder case, *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, on the question of “[w]hether federal law precludes state-law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse gas emissions on the global climate.”³⁴ Briefing in this case will likely be complete later this year, and oral argument will likely be set in the fall of 2026 or the spring of 2027. The United States Department of Justice filed a brief in support of the petition for certiorari, arguing that states do not have the authority to apply their laws to worldwide GHG emissions and that the CAA preempts any such efforts.³⁵

The bill’s proponents argue that the bill’s recovery mechanism is legally distinct from the state tort law claims that may be preempted by the CAA. Given the breadth of the preemption question before the Court in the County of Boulder case, however, the Court’s opinion could affect the state’s right to enact measures like the one at issue here.

b. Due process

The bill’s opponents argue that this bill would violate state and federal guarantees of due process by imposing liability “using vague and retroactive standards without requiring proof of causation.” The same argument was made against SB 222 (Wiener, 2025) as heard by this Committee, and while the two bills are not identical, the due process analysis is generally the same. As with SB 222, this bill seeks to hold (1) a subset of the industry responsible for GHG emissions (2) retroactively liable for the harms arising from GHG emissions (3) calculated based on the fossil fuel producer’s global GHG emissions (4) under a theory of causation that permits liability even when the producer’s specific emissions cannot be traced to the specific harms.

With respect to retroactivity and the constitutionality of imposing liability on fossil fuel companies for damages caused by climate change, this Committee’s SB 222 analysis stated:

As to the issue of holding these companies liable for damages based on their past conduct, it is “well established that legislative Acts adjusting the burdens and benefits of economic life come to the Court with a

³³ *County Commissioners of Boulder County v. Suncor Energy USA, Inc.* (Colo., May 12, 2025) –P.3d –, 2025 WL1363355, *2, cert. granted *sub nom.* Feb. 23, 2026, –S.Ct. –, 2026 WL 490537.

³⁴ Petition for a Writ of Certiorari, *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County* (Aug. 8, 2025) United States Supreme Court Case No. 25-170, p. 1.

³⁵ Brief for the United States as Amicus Curiae Supporting Petitioners, *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County* (Sept. 11, 2025) United States Supreme Court Case No. 25-170, pp. 15-16.

presumption of constitutionality, and that the burden is on one complaining of a due process violation to establish that the legislature has acted in an arbitrary and irrational way.”³⁶ That deference “is no less applicable” to legislation in the field of economic policy “when that legislation is applied retroactively.”³⁷ “This is true even though the effect of the legislation is to impose a new duty or liability based on past acts.”³⁸ To satisfy the demands of due process, the retroactive application of the legislation must be “justified by a rational legislative purpose.”³⁹ Under this approach, the Court upheld a federal statute requiring mine operators to compensate coal miners who were employees and contracted black lung disease in the mines before the enactment of the statute.⁴⁰ The Court found “that the imposition of liability for the effects of disabilities bred in the past is justified as a rational measure to spread the costs of the employees’ disabilities to those who have profited from the fruits of their labor[:] the operators and the coal consumers.”⁴¹

The Federal Circuit, after reviewing the case law on retroactivity, articulated the test as follows:

[W]e perceive that the imposition of even severe retroactive obligations for past acts will be found rational and will be held constitutional under the Due Process Clause if two conditions are satisfied: (1) Congress reasonably concluded that the party subjected to retroactive obligations benefited from activity that contributed to a societal problem, and liability is not disproportionately imposed on that party; and (2) the imposition of retroactive liability would not be contrary to that party's reasonable expectations.⁴²

Applying those conditions here, the Legislature could easily conclude that fossil fuel companies benefitted from the activity that contributed to the climate crisis. It is also probably fair to say that fossil fuel companies should have a reasonable expectation of being required to pay *something* to help affected parties cover the massive damages resulting from the climate crisis. Less clear, however, is whether holding a handful of fossil fuel companies liable for the full amount of damages resulting from every

³⁶ *Pension Ben. Guar. Corp. v. R.A. Gray & Co.* (1984) 467 U.S. 717, 729.

³⁷ *Ibid.*

³⁸ *Id.* at p. 730.

³⁹ *Ibid.*

⁴⁰ *Usery v. Turner Elkhorn Mining Co.* (1976) 428 U.S. 1, 6.

⁴¹ *Id.* at p. 18.

⁴² *Commonwealth Edison Co. v. U.S.* (Fed. Cir. 2001) 271 F.3d 1327, 1346.

climate disaster is (1) proportionate, or (2) contrary to a fossil fuel company's reasonable expectations.⁴³

The same basic logic applies here. As discussed in Comment 2, fossil fuel companies have made huge profits selling the products that are slowly killing the planet, despite knowing for decades that GHG emissions are the primary cause of climate change. Under the circumstances, efforts to better align the costs and benefits of continued fossil fuel costs seem generally reasonable – the only reason fossil fuels continue to be “profitable” is that fossil fuel companies aren't on the hook for any of the downsides. The questions remain, however, whether a court would find (1) that the recovery authorized by this specific bill is proportionate and consistent with fossil fuel companies' reasonable expectations, and (2) that the causation mechanism in the bill is sufficiently consistent with longstanding cause-in-fact and proximate cause doctrine.

6. Arguments in support

According to a coalition of the bill's sponsors and supporters:

There is scientific consensus that extreme weather disasters like the deadly fires that tore through Los Angeles County are being worsened by atmospheric warming tied to the burning of fossil fuels. Major polluter corporations are uniquely responsible for these damages. These companies knew decades ago that their products would make wildfires, floods, and storms worse. Yet rather than change course, they engaged in a decades-long campaign to deceive the public about the reality of climate change and their products' contribution to the problem. That deception continues today, even as these companies have profited handsomely, taking home trillions of dollars since 1990.

SB 982 provides critical tools to address this crisis by empowering California's Attorney General to hold large polluter corporations accountable for their contribution to major weather disasters made worse by climate change. Money recovered through legal action will be used to reimburse California residents for home insurance costs that rise due to climate disasters, replenish financial shortfalls in the FAIR Plan to limit rate hikes and surcharges, and fund the California Safe Homes grant program to help low- and middle-income homeowners make their properties more fire-resilient.

This legislation is particularly urgent as President Trump politicizes federal disaster response, leaving nearly \$34 billion in disaster aid requests hanging in the balance. Our state budget cannot backfill the full cost of past disasters and projected future events. Our Attorney General needs every tool available to

⁴³ Sen. Com. On Judiciary, Analysis of Sen. Bill No. 222 (2025-2026 Reg. Sess.) as amended Mar. 28, 2025, pp. 9-10.

protect taxpayers and help California communities recover from climate disasters.

7. Arguments in opposition

According to a coalition of the bill's opponents:

SB 982 would create a new civil action to be brought by the Attorney General to sue California's energy companies for damage allegedly caused by climate disasters such as fires, floods, hurricanes, and earthquakes. The bill bases liability on events "attributable to climate change" without providing any time bounds on attribution.

SB 982 allows this new civil action against energy companies without proof of causation—there is no requirement of any evidence that energy companies' actions caused the alleged damages. To sue, the AG needs only allege the damage was the result of a climate disaster. As a result, SB 982 violates the U.S. Constitution.

SB 982 would result in higher costs for all Californians. According to an independent study by the California Center for Jobs and the Economy on last year's similar bill, SB 982 would drive up costs for gasoline, diesel, electricity, and natural gas - resulting in a massive increase to the state's already-high cost of living.

Specifically, SB 982 would, by 2026, increase:

- the price per gallon of gas,
- the average household costs, and
- electricity rates.

In addition to enormous new costs imposed on California consumers, the bill would harm the state's economy, with a substantial number of jobs lost each year, reducing wages and state tax revenues, according to the California Center's study.

SUPPORT

California Environmental Voters (co-sponsor)

Center for Climate Integrity (co-sponsor)

Extreme Weather Survivors (co-sponsor)

350 Bay Area Action

350 Sacramento

Active San Gabriel Valley

Affordable Homeownership Foundation Inc

Alliance for a Better Community
Alliance of Californians for Community Empowerment
Americans for Financial Reform
Better APC
Black Women for Wellness Action Project
California Environmental Justice Alliance
California Nurses Association
California School Employees Association, AFL-CIO
Californians for Safety and Justice
Center for Environmental Health
Central Valley Partnership
CleanEarth4Kids.org
Climate Action California
Climate Action Campaign
Climate Hawks Vote
Climate Health Now Action Fund
Climate Positive Consulting
Communitas Financial Planning PBC
Consumer Attorneys of California
Consumer Federation of California
Consumer Watchdog
Crenshaw Chamber of Commerce
Dayenu: A Jewish Call to Climate Action
Dolores Huerta Foundation
Dr. Bronner's
Earth Island Advocates
Eaton Fire Survivors Network
Elders Climate Action Northern California Chapter
Elders Climate Action Southern California Chapter
End Poverty in California
Endangered Habitats League
Ethos Santa Cruz, LLC
Extreme Weather Survivors
Families Advocating for Chemical and Toxic Safety
Food & Water Watch
Fossil Free California
Friends Committee on Legislation of California
Fund Her
GoodPower
Greater Los Angeles African American Chamber of Commerce
Green America
Greenpeace USA
HARC, Inc.
Housing California

Hmong Innovating Politics
Indivisible Alta-Pasadena
Initiate Justice Action
Inland Coalition for Immigrant Justice
INYO 350
Jakara Movement
LA Voice
Leadership Counsel for Justice and Accountability
Little Manila Rising
Los Angeles Climate Reality Project
National Housing Law Project
NRDC
Pilipino Workers Center
Poder Latinx
Public Citizen
Reach Out
Rise Economy
San Diego Flood Survivors
San Fernando Valley Chapter of the Climate Reality Project
San Francisco Bay Physicians for Social Responsibility
Santa Monica Democratic Club
Shelltown Resilience
Sierra Business Council
Sierra Club California
Silicon Valley Black Chamber of Commerce
Sustainable Rossmoor
The Climate Center
The LEAP Institute
The Phoenix Group
Third Act Sacramento
Thinkshift Communications
United Nurses Associations of California/Union of Health Care Professionals
Vianova
Visceral
Youth Climate Strike Los Angeles
19 individuals

OPPOSITION

Agricultural Energy Consumers Association
Airlines for America
American Chemistry Council
American Tort Reform Association
Auto, Marine & Specialty Painters Local Union 1176

Bay Area Council
Boilermakers Local 92
Building and Construction Trades Council of Alameda County, AFL-CIO
Building Owners and Managers Association of California
CA-NV Conference of Operating Engineers
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Council for Environmental and Economic Balance
California Fuels + Convenience Alliance
California Hispanic Chambers of Commerce
California League of Food Producers
California Manufacturers and Technology Association
California Renewable Transportation Alliance
California Retailers Association
California State Association of Electrical Workers
California State Pipe Trades Council
California Taxpayers Association
Carpet, Linoleum & Soft Tile Workers Local Union 1237
Carpet, Linoleum & Soft Tile Workers, Local Union 12, District Council 16
Carson Chamber of Commerce
Central Valley Business Federation
Civil Justice Association of California
Contra Costa Building and Construction Trades Council
Coastal Energy Alliance
Council of Business and Industries
District Council 16 Painters and Drywall Finishers Local 913
District Council 16/Local Union 294, International Union of Painters and Allied Trades
District Council 16, International Union of Painters and Allied Trades
East Bay Leadership Council
Econ Alliance
Family Business Association of California
Garden Grove Chamber of Commerce
Glaziers Local Union 169
Glaziers Local Union 718
Glaziers Local 767
Glaziers Local 1621
Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Harbor Association of Industry and Commerce
Howard Jarvis Taxpayers Association
I.B.E.W. Local 302

IBEW Local 11
IBEW Local 340
IBEW Local 428
IBEW Local 569
IBEW Local 684 Electricians
IBEW Local Union 40
IBEW Local Union 617
IBEW Local Union 639
IBEW Union Local 595
Industrial Association
Inland Empire Economic Partnership
International Brotherhood of Electrical Workers Local 100
International Union of Elevator Constructors Local 8
Ironworkers Local 433
Kern, Inyo & Mono Counties Building & Construction Trades Council
Kern Citizens for Energy
Kern County Board of Supervisors
Kern County Hispanic Chamber of Commerce
Kern County Taxpayers Association
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Los Angeles Latino Chamber of Commerce
Los Angeles/Orange Counties Building and Construction Trades Council
Moorpark Chamber of Commerce
National Association of Mutual Insurance Companies
National Federation of Independent Business
Orange County Business Council
Painters and Drywall Finishers Local Union 3
Painters and Drywall Finishers Local Union 272
Painters and Tapers Local 487
Pipefitters Local 403
Plumbers & Pipefitters Local 447
Plumbers & Pipefitters Local Union 442
Plumbers and Pipefitters Local Union 38
Plumbers & Steamfitters Local Union 342
Plumbers and Steamfitters U.S. Local No. 343
Plumbers and Steamfitters UA Local 484
Redondo Beach Chamber of Commerce
Road Sprinkler Fitters Local Union 669
Sacramento-Sierra's Building & Construction Trades Council
San Diego County Building and Construction Trades Council
San Gabriel Valley Economic Partnership
San Mateo County Building Trades Council

Santa Barbara County Taxpayer Advocacy Center
Santa Clara and San Benito Counties Building and Construction Trades Council
Simi Valley Chamber of Commerce
SMART Local Union 105
South Bay Association of Chambers of Commerce
South County Chambers of Commerce
Southern California Leadership Council
Sprinkler Fitters U.A. Local 709
Teamsters California
Teamsters Joint Council No. 42
Teamsters Local 87
Torrance Area Chamber of Commerce
Tri-Counties Building & Construction Trades Council of San Louis Obispo
Tri-County Chamber Alliance
U.S. Chamber Institute for Legal Reform
U.A. Local 364
UA Local 250
UA Local Union 582
UA Plumbers & Pipefitters Local Union 114
UA Plumbers and Pipefitters Local Union 460
United Association of Plumbers and Pipefitters Local 761
United Union of Roofers & Waterproofers Local No. 40
Ventura County CoLab
Ventura County Tax Payers Association
Ventura Chamber of Commerce
Western Propane Gas Association
Western States Petroleum Association
Western Ventura County Business Alliance
Wilmington Chamber of Commerce

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation:

SB 684 (Menjivar, 2025) would have established the Polluters Pay Climate Superfund Act of 2025, which requires fossil fuel companies that meet specified criteria to pay to the state the costs incurred from 1990 to 2045 as a result of climate change caused by emissions from 1990-2024, based on the company's proportional share of global fossil fuel emissions in that period. SB 684 died in this Committee.

SB 222 (Wiener, 2025) would have authorized a person to bring a civil action for damages against a party responsible for a climate disaster or similar event due to the

responsible party's misleading and deceptive practices about the connection between its fossil fuel products and climate change, as specified. SB 222 failed passage in this Committee and was subsequently gutted and amended to address a different subject.

AB 1243 (Addis, 2025) was identical to SB 684 (Menjivar, 2025). AB 1243 died in the Assembly Judiciary Committee.

SB 1497 (Menjivar, 2024) was substantially similar to SB 684 (Menjivar, 2025), except that it sought to recover damages for harms caused by emissions from 2000 through 2020. SB 1497 died on the Senate Floor.

SB 253 (Wiener, Ch. 382, Stats. 2023) required any partnership, corporation, limited liability company, or other U.S. business entity with total annual revenues in excess of \$1 billion and that does business in California to publicly report their annual GHG emissions, as specified by CARB, beginning January 1, 2026.
