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The Proposed Amendment materially increases the compliance costs imposed on transportation fuel suppliers in California. In practice, these additional costs will be passed through to consumers as higher retail fuel prices. Although framed as a regulatory compliance obligation rather than a statutory tax, the economic effect on consumers is indistinguishable from a per-gallon surcharge. Under Article XIII A, Section 3 of the California Constitution (as amended by Proposition 26), any state-imposed levy, charge, or exaction is presumed to be a tax unless the State can demonstrate that it fits within one of the narrow exceptions for true regulatory cost recovery. Measures that function as revenue-raising mechanisms typically require adherence to the constitutional procedures governing taxation, including the two-thirds legislative approval requirement.

CARB should clearly explain why a policy with tax-like consumer impacts is being implemented through regulatory action rather than through the constitutionally prescribed legislative process.