

# VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

## CHAPTER 915

*An Act to amend and reenact §§ 46.2-1176 and 46.2-1178 of the Code of Virginia, relating to motor vehicle emissions inspections; hybrid vehicles.*

[H 887]

Approved April 15, 2004

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1176 and 46.2-1178 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-1176. Definitions.

The following words and phrases when used in this article shall have the following meanings except where the context clearly indicates a different meaning:

"Basic, test and repair program" means a motor vehicle emissions inspection system established by regulations of the Board which shall designate the use of a BAR-90, designed so it may be upgraded in the future to an ASM 50-15 (acceleration simulation mode or method), as the only authorized testing equipment. Only those computer software programs and emissions testing procedures necessary to comply with the applicable provisions of Title I of the Clean Air Act shall be included. Such testing equipment shall be approvable for motor vehicle manufacturers' warranty repairs.

"Board" means the State Air Pollution Control Board.

"Certificate of emissions inspection" means a document, device, or symbol, prescribed by the Director and issued pursuant to this article, which indicates that (i) a motor vehicle has satisfactorily complied with the emissions standards and passed the emissions inspection provided for in this article; (ii) the requirement of compliance with such emissions standards has been waived; or (iii) the motor vehicle has failed such emissions inspection.

"Director" means the Director of the Department of Environmental Quality.

"Emissions inspection station" means any facility or portion of a facility that has obtained an emissions inspection station permit from the Director authorizing the facility to perform emissions inspections in accordance with this article.

"Enhanced emissions inspection program" means a motor vehicle emissions inspection system established by regulations of the Board that shall designate the use of the ASM 50-15 (acceleration simulation mode or method) as the only authorized testing equipment. Only those computer software programs and emissions testing procedures necessary to comply with applicable provisions of Title I of the Clean Air Act shall be included. Such testing equipment shall be approvable for motor vehicle manufacturers' warranty repairs.

"Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the Director.

"Motor vehicle" means any vehicle that:

1. Is designed for the transportation of persons or property; and
2. Is powered by an internal combustion engine.

"On-road testing" means tests of motor vehicle emissions or emissions control devices by means of roadside pullovers or remote sensing devices.

*"Qualified hybrid motor vehicle" means a motor vehicle that (i) meets or exceeds all applicable regulatory requirements, (ii) meets or exceeds the applicable federal motor vehicle emissions standards for gasoline-powered passenger cars, and (iii) can draw propulsion energy both from gasoline or diesel fuel and a rechargeable energy storage system.*

"Referee station" means an inspection facility operated or used by the Department of Environmental Quality (i) to determine program effectiveness, (ii) to resolve emissions inspection conflicts between motor vehicle owners and emissions inspection stations, and (iii) to provide such other technical support and information, as appropriate, to emissions inspection stations and vehicle owners.

"Remote sensing" means the measurement of motor vehicle emissions through electronic or light-sensing equipment from a remote location such as the roadside. Remote sensing equipment may include devices to detect and record the vehicle's registration or other identification numbers.

"Test and repair" means motor vehicle emissions inspection facilities that perform official motor vehicle emissions inspections and may also perform vehicle repairs. No regulation of the Board pertaining to test and repair shall bar inspection facilities from also performing vehicle repairs.

§ 46.2-1178. Administration and scope of emissions inspection program.

A. Except as otherwise provided in this section, the emissions inspection program provided for in this article shall apply to motor vehicles having actual gross weights of 8,500 pounds or less that are registered in the Counties of Arlington, Fairfax, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The provisions of this subsection shall expire when

the provisions of subsection C of this section become effective.

B. An emissions inspection program as required by regulations adopted by the Board under this article shall apply to motor vehicles that have actual gross weights of 8,500 pounds or less and are registered or operated primarily, as defined by the Board in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), in the Counties of Chesterfield, Hanover, and Henrico and the Cities of Colonial Heights, Hopewell, and Richmond. Such emissions inspection program shall be a basic, test and repair program with the greatest number of inspection facilities consistent with the consumer protection and fee provisions herein as consistent with the Clean Air Act.

The provisions of this subsection shall apply but not necessarily be limited to (i) motor vehicles owned by governmental entities, (ii) motor vehicles owned by military personnel residing in those localities, (iii) motor vehicles owned by leasing or rental companies, and (iv) motor vehicles owned or leased by employees of the federal government and operated on a federal installation. The provisions of this subsection shall become effective July 1, 1995. The Board may promulgate regulations to implement the provisions of this article, but such regulations shall not require inspections in the localities mentioned in this subsection prior to the later of: (i) July 1, 1996; or (ii) the date on which the Federal Environmental Protection Agency, pursuant to the Clean Air Act, formally and in writing approves this program for such localities or on such later date as may be provided by regulations of the Board.

*B1. The emissions inspection program provided for in this article shall not apply to any qualified hybrid motor vehicle if such vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests unless remote sensing devices indicate the hybrid vehicle may not meet current emissions standards. The Board shall adopt such regulations as may be required to implement this exemption.*

C. The emissions inspection program provided for in this subsection shall be a test and repair enhanced emissions inspection program with the greatest number of inspection facilities consistent with the consumer protection and fee provisions herein and may include on-road testing and remote sensing devices. Any enhanced emissions inspection program provided for in this article shall apply to motor vehicles that have actual gross weights of 10,000 pounds or less that were actually manufactured or designated by the manufacturer as a model manufactured in a calendar year less than ~~twenty-five~~ 25 calendar years prior to January 1 of the present calendar year and are registered or operated primarily, as defined by the Board in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) in the Counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

The provisions of this subsection shall apply but not necessarily be limited to (i) motor vehicles owned by governmental entities, (ii) motor vehicles owned by military personnel residing in those localities, (iii) vehicles owned by leasing or rental companies, and (iv) motor vehicles owned or leased by employees of the federal government and operated on a federal installation.

The provisions of this subsection shall be effective January 1, 1996, or on such later date as may be provided by regulations of the Board. However, the provisions of this subsection may become effective immediately provided that (i) the federal Environmental Protection Agency, pursuant to the Clean Air Act, formally and in writing approves the program for such localities, (ii) the Governor determines in writing that expedited promulgation of such regulations is in the best interest of the Commonwealth, determining that such shall constitute an "emergency situation" pursuant to § 2.2-4011, and (iii) the Governor authorizes the Board to promulgate the regulations as emergency regulations in accordance with this section.

D. Any emissions inspection program regulations in effect at the time the 1995 amendments to this section become effective shall remain in effect until the Board promulgates new regulations or amends or repeals existing regulations in accordance with this section.