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SENATE BILL NO. 1002

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 46.2-1176, 46.2-1178, 46.2-1178.1, and 46.2-1182 of the Code of Virginia, relating to vehicle emissions inspection program.

Patron—Watkins

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1176, 46.2-1178, 46.2-1178.1, and 46.2-1182 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 or other comparable equipment and devices,~~ computer software programs and emissions testing procedures, *including remote sensing systems*, 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 or other comparable equipment and devices,~~ computer software programs and emissions testing procedures, *including remote sensing systems*, 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 clean screen program" means the inspection system that allows a motor vehicle owner to voluntarily certify compliance with emissions standards by means of on-road remote sensing.

"On-road remote sensing contractor" means the entity that operates the on-road clean screen program under a contract with the Virginia Department of Environmental Quality.

"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

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59 light-sensing equipment from a remote location such as the roadside. Remote sensing equipment may
60 include devices to detect and record the vehicle's registration or other identification numbers.

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

64 § 46.2-1178. Administration and scope of emissions inspection program.

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

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

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

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

92 C. The emissions inspection program provided for in this subsection shall be a test and repair
93 enhanced emissions inspection program with the greatest number of inspection facilities consistent with
94 the consumer protection and fee provisions herein and ~~may~~ shall include on-road testing and remote
95 sensing devices *and an on-road clean screen program*. Any enhanced emissions inspection program
96 provided for in this article shall apply to motor vehicles that have actual gross weights of 10,000 pounds
97 or less that were actually manufactured or designated by the manufacturer as a model manufactured in a
98 calendar year less than 25 calendar years prior to January 1 of the present calendar year and are
99 registered or operated primarily, as defined by the Board in accordance with the provisions of the
100 Administrative Process Act (§ 2.2-4000 et seq.) in the Counties of Arlington, Fairfax, Loudoun, Prince
101 William, and Stafford and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.
102 *At least 30 percent of the motor vehicles described in this subsection shall be eligible for the on-road*
103 *clean screen program.*

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

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

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

119 § 46.2-1178.1. On-road testing of motor vehicle emissions; authority to adopt regulations; civil
120 charges.

A. The *enhanced* emissions inspection program authorized by § 46.2-1177 and provided for in § 46.2-1178 shall include on-road testing of motor vehicle emissions *and an on-road clean screen program*. The Board ~~may~~ *shall* promulgate regulations establishing on-road testing requirements including, but not limited to, collecting of data and information necessary to comply with the federal Clean Air Act Amendments of 1990, random testing of motor vehicle emissions, procedures to notify owners of test results, and assessment of civil charges for noncompliance with emissions standards adopted by the Board.

B. If an emissions test performed pursuant to this section indicates that a motor vehicle does not meet emissions standards established by the Board, the Board may collect from the owner of the vehicle a civil charge based on actual emissions. The Board shall establish a schedule of civil charges to be collected pursuant to this section. Such civil penalties shall not exceed \$450 using 1990 as the base year and adjusted annually by the Consumer Price Index. The schedule of charges and their assessment shall be established by regulations promulgated to be in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. Civil charges assessed pursuant to this section shall be waived by the Board if, within thirty calendar days of notice of the violation, the vehicle's owner provides proof that the vehicle (i) since the date of the violation, has passed a vehicle emissions test as provided in § 46.2-1178, (ii) qualifies for an emissions inspection waiver as provided in § 46.2-1181, or (iii) has qualified for an emissions inspection waiver as provided in § 46.2-1181 within the twelve months prior to the violation.

D. Civil charges collected pursuant to this section shall be paid into the state treasury and deposited by the State Treasurer into the Vehicle Emissions Inspection Program Fund pursuant to § 46.2-1182.2.

E. If *the on-road testing clean screen program* indicates that a motor vehicle does not exceed emissions standards adopted by the Board for on-road testing pursuant to § 46.2-1179, *then* such testing may be considered proof of compliance for the purposes of § 46.2-1183 and may be considered to satisfy the requirements of § 46.2-1177 for a biennial inspection. The Board shall establish criteria under which such testing shall satisfy the requirements of § 46.2-1183.

§ 46.2-1182. Emissions inspection fees; exemption.

Emissions inspection stations performing emissions inspections under subsection A of § 46.2-1178 may charge \$11.40 for each emissions inspection, but such charge shall not be mandatory. Any such fee shall be paid to the emissions inspection station.

Each emissions inspection station performing emissions inspections under subsection B of § 46.2-1178 may charge for each emissions inspection an amount not to exceed \$17.00. Any such fee shall be paid to and retained by the emissions inspection station.

Beginning at such date upon which the program becomes an enhanced emissions program, each emissions inspection station performing emissions inspections under subsection C of § 46.2-1178 may charge an amount not to exceed \$28.00 for each emissions inspection. Any such fee shall be paid to and retained by the emissions inspection station.

Within ~~fourteen~~ 14 days of an initial failure of an emissions inspection, the vehicle's owner shall be entitled to one free reinspection at the station that conducted the original inspection.

Beginning January 1, 2012, the Department of Motor Vehicles at the time of vehicle registration renewal shall charge \$26 to each motor vehicle owner who elects to participate in the on-road clean screen program.

The Department of Motor Vehicles, on a monthly basis, shall remit all clean screen program amounts, less costs of \$0.50 for each participating motor vehicle, to the Department of Environmental Quality.

The Department of Environmental Quality, on a monthly basis, shall remit all clean screen program amounts received from the Department of Motor Vehicles, less costs of \$0.50 for each participating motor vehicle, to the on-road remote sensing contractor.

2. That the State Air Pollution Control Board shall adopt regulations necessary to implement the provisions of this act to be effective within 280 days of its enactment. Such regulations shall include a requirement for a comment period of at least 30 days, pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

3. That beginning January 1, 2013, the Department of Motor Vehicles costs for each participating motor vehicle shall be reduced to \$0.25.

4. That beginning January 1, 2013, the Department of Environmental Quality costs for each participating motor vehicle shall be increased to \$0.75.