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SENATE BILL NO. 46

Offered January 11, 2012

Prefiled January 4, 2012

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 necessary to comply with the applicable provisions of Title I of the federal 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 necessary to comply with applicable provisions of Title I of the federal 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 a program that allows a motor vehicle owner to voluntarily certify compliance with emissions standards by means of on-road remote sensing.

"On-road emissions inspector" means the entity or entities authorized by the Department of Environmental Quality to perform on-road testing, including on-road testing in accordance with the clean screen program.

"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.

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

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

65 § 46.2-1178. Administration and scope of emissions inspection program.

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

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

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

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

94 C. The emissions inspection program provided for in this subsection shall be a test and repair
95 enhanced emissions inspection program with the greatest number of inspection facilities consistent with
96 the consumer protection and fee provisions herein and ~~may~~ *shall* include on-road testing, ~~and~~ remote
97 sensing devices, *and an on-road clean screen program*. Any enhanced emissions inspection program
98 provided for in this article shall apply to motor vehicles that have actual gross weights of 10,000 pounds
99 or less that were actually manufactured or designated by the manufacturer as a model manufactured in a
100 calendar year less than 25 calendar years prior to January 1 of the present calendar year and are
101 registered or operated primarily, as defined by the Board in accordance with the provisions of the
102 Administrative Process Act (§ 2.2-4000 et seq.) in the Counties of Arlington, Fairfax, Loudoun, Prince
103 William, and Stafford and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.
104 *An on-road clean screen program shall be limited to no more than 30 percent of the motor vehicles*
105 *described in this subsection and shall not be considered an emissions inspection station or facility.*

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

110 The provisions of this subsection shall be effective January 1, 1996, or on such later date as may be
111 provided by regulations of the Board. However, the provisions of this subsection may become effective
112 immediately provided that ~~(i)~~ *(a)* the ~~federal~~ U.S. Environmental Protection Agency, pursuant to the
113 *federal* Clean Air Act, formally and in writing approves the program for such localities, ~~(ii)~~ *(b)* the
114 Governor determines in writing that expedited promulgation of such regulations is in the best interest of
115 the Commonwealth, determining that such shall constitute an "emergency situation" pursuant to
116 § 2.2-4011, and ~~(iii)~~ *(c)* the Governor authorizes the Board to promulgate the regulations as emergency
117 regulations in accordance with this section.

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

§ 46.2-1178.1. On-road testing of motor vehicle emissions; authority to adopt regulations; civil 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 *and on-road clean screen program* requirements including, but not limited to, collecting of data and information necessary to comply *or determine compliance* with the federal Clean Air Act Amendments of 1990 applicable laws and regulations, 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, *and standards for operating the on-road clean screen program, including provisions for the suspension or revocation of any on-road emission inspection program for failure to act in accordance with the provisions of this article and regulations 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~~ 30 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 *at an emissions inspection station* 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~~ 12 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~~ \$17. 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~~ \$28 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, 2013, the on-road emissions inspector performing emissions inspections under subsection C of § 46.2-1178 may charge each motor vehicle owner who elects to participate in the on-road clean screen program an amount not to exceed \$28 for each emissions inspection. Any such fee shall be paid to the on-road emissions inspector. From each emissions inspection fee received by the on-road emissions inspector, \$4.50 shall be appropriated to the Transportation Trust Fund as defined in § 33.1-23.03:1.

2. That the State Air Pollution Control Board adoption of regulations necessary to implement the provisions of this act shall be exempt from Article 2 (§ 2.2-4006 et. seq.) of Chapter 40 of Title 2.2 of the Code of Virginia except that the Department of Environmental Quality shall utilize a regulatory advisory panel to assist in the development of necessary regulations and shall provide an opportunity for public comment on all regulations. That the State Air Pollution Control Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That the on-road emissions inspectors shall reimburse the Department of Environmental Quality and the Department of Motor Vehicles for all costs that the agencies incur as a result of the on-road clean screen program.

- 182 4. That the Department of Environmental Quality shall make its best efforts to obtain proposals
183 from multiple vendors to operate the on-road clean screen program.
- 184 5. That the State Air Pollution Control Board may reduce the percentage of vehicles eligible to
185 participate in the on-road clean screen program as is necessary to meet applicable air quality
186 requirements under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., as amended.
- 187 6. That the Department of Motor Vehicles shall confer with the Department of Environmental
188 Quality to recommend and implement procedures to ensure that data in the Department of Motor
189 Vehicles' vehicle registration records is accurate where that data is used to determine whether a
190 vehicle is subject to emissions inspection requirements.