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**SENATE BILL NO. 502**

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 46.2-1176, 46.2-1178, 46.2-1178.1, 46.2-1179.1 through 46.2-1182.2, 46.2-1187.1, and 46.2-1187.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1177.1, relating to motor vehicle emissions inspection.*

Patron—Saslaw

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, 46.2-1179.1 through 46.2-1182.2, 46.2-1187.1, and 46.2-1187.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1177.1 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" or "*Basic emissions inspection 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),~~ an OBD-II (on-board diagnostic system) as the only authorized testing equipment, *except for those vehicles not having operable equipment that permits use of an OBD-II, then a two-speed idle tailpipe test may be used.* Possession and availability of equipment to conduct a two-speed idle tailpipe test shall be required for basic emissions inspection stations. Only those 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, *have at least four ports for accessories on each computer, and be designed to allow use of a wireless or broadband device for use in providing OBD-II tests. All such equipment and software shall be designed so that it may be upgraded in the future to that which is applicable and required for use in an enhanced emissions inspection program.*

"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, *as the only authorized testing equipment, (i) the use of the ASM 50-15 (acceleration simulation mode or method) together with an OBD-II (on-board diagnostic system); (ii) the use of the ASM 50-15 together with the use of a dynamometer, only for those vehicles not having operable equipment that permits the use of an OBD-II; or (iii) a two-speed tailpipe test, only for those vehicles not having operable equipment that permits the use of an OBD-II and that are unable to be tested using a dynamometer* ~~as the only authorized testing equipment.~~ Possession and availability of a dynamometer shall be required for enhanced emissions inspection stations. Only those 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, *have at least four ports for accessories on each computer, and be designed to allow use of a wireless or broadband device for use in conducting OBD-II tests.*

"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.

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

61 "Program coordinator" means any person or corporation that has entered into a contract with the  
62 Director to provide services in accordance with this article.

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

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

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

74 "Test and repair" means motor vehicle emissions inspection facilities that perform official motor  
75 vehicle emissions inspections and may also perform vehicle repairs. No regulation of the Board  
76 pertaining to test and repair shall bar inspection facilities from also performing vehicle repairs.  
77 Emissions inspections and vehicle safety inspections may be performed in the same service bay, provided  
78 that the facility is both an emissions inspection station and an official safety inspection station pursuant  
79 to §§ 46.2-1163 and 46.2-1166. Emissions inspections may be performed in any service bay of the  
80 emissions inspection station or, if by wireless means, in any other area on the premises of the emissions  
81 inspection station.

82 "Validation program" or "program validation" means a program approved by the Director by which  
83 vehicles at the time of a state safety inspection are randomly identified and provided a free emissions  
84 inspection for the purpose of monitoring the effectiveness of the emissions inspection program.  
85 "Validation program" may be considered "on-road testing" as may be acceptable to the U.S.  
86 Environmental Protection Agency.

87 § 46.2-1177.1. Contracting for and services to be provided by program coordinator.

88 A. Following a competitive process from corporations with national experience in emissions  
89 inspections programs and their oversight, including proposed methodology for performing the services,  
90 the Director shall enter into an agreement to designate an entity as the program coordinator for the  
91 emissions inspection programs pursuant to this article. Such agreement shall include, but not be limited  
92 to, and stipulate the following:

93 1. The program coordinator shall receive, collect, tabulate, and provide data from all emissions  
94 inspection stations and other data necessary to provide evidence to the U.S. Environmental Protection  
95 Agency of Virginia's compliance with the federal Clean Air Act's provisions related to vehicle emissions  
96 inspections, including but not limited to information requirements as may be established by the Board;

97 2. The program coordinator shall agree to provide at a reasonable cost to applicants all training  
98 and examination for certification of emissions inspectors and, additionally, certification of emissions  
99 repair technicians. Such training and certification examination, and the availability and convenience of  
100 such, shall be designed to meet demand and need. Subject to the Director's approval, reasonable costs  
101 shall be those designed to cover the actual costs to provide the training and certification examination.  
102 On behalf of the Director, upon completion and successful passage of such certification examination, the  
103 program coordinator shall issue a certificate to the inspector or repair technician; and

104 3. The program coordinator shall, on behalf of and under the direction of the Director, agree to  
105 provide, upon acceptable application, a license for the emissions inspection station.

106 B. 1. The program coordinator shall provide to each emissions inspection station any and all  
107 equipment necessary for emissions inspections in the station's locality, including computer-related  
108 hardware and software, so that inspection tests, procedures, and results of such tests are in compliance  
109 with the federal Clean Air Act. However, the emissions inspection station shall be responsible for  
110 providing and maintaining, at its expense, any required dynamometer or two-speed idle tailpipe  
111 equipment.

112 2. Computers for emissions inspections shall include at least four ports for accessory equipment,  
113 which may be added at the emissions inspection station's expense.

114 3. Computers for emissions inspections shall be designed to accept and integrate into the test use of  
115 a wireless OBD-II. Such computers shall permit use of and be compatible with the wireless OBD-II  
116 products of no fewer than two major manufacturers. The emissions inspection station shall be  
117 responsible for the cost and maintenance of any wireless OBD-II that may be used for emissions  
118 inspections.

119 4. For emissions inspection stations in areas requiring enhanced emissions tests, equipment,  
120 including computer-related hardware and software, shall be compatible for connection and use with all

dynamometers that were acceptable for use as of January 1, 2012. Purchase, lease, and maintenance costs of dynamometers shall be the responsibility of the enhanced emissions inspection station.

5. For emissions inspection stations in areas requiring basic emissions tests, equipment, including computer-related hardware and software, shall be designed so that only software upgrades would be needed should that area be redesignated to require enhanced emissions inspections.

6. The program coordinator shall provide all necessary software, designed to coordinate test results and related information with the Department of Motor Vehicles and the Department of Environmental Quality, whether in a basic or an enhanced emissions inspection area.

7. The program coordinator shall provide all of the most current operating software and include all applicable software upgrades necessary for the provision of emissions inspections.

8. At no additional cost, the program coordinator shall provide certified emissions inspectors and certified emissions repair technicians with all related continuing education deemed necessary and appropriate by the Director, and as may be required by the U.S. Environmental Protection Agency, with such continuing education to be reasonable in frequency and location.

9. Only emissions inspectors and emissions repair technicians certified by the Director or Department, respectively, shall be permitted to provide emissions inspections or emissions-related repairs following an emissions inspection. However, emissions repair technicians need only be certified for emissions related repairs when a vehicle fails a subsequent emissions inspection in order to obtain the required repairs eligible for a waiver.

10. All equipment provided by the program coordinator and used at the emissions inspection station shall be repaired or replaced within four hours, Monday through Friday, of the emissions inspection station providing notice to the program coordinator of the equipment being inoperable or failing to properly perform its functions. For every hour beyond the four hours in which the equipment is neither repaired nor replaced, a penalty fee shall be assessed by the program coordinator, to be determined by the Director, to be paid to the owner of the emissions inspection station.

11. In return for providing the necessary equipment for emissions inspections, the program coordinator shall have the right to invoice and collect a fee based on each emissions inspection resulting in the vehicle successfully passing the emissions inspection. Such fee shall be \$3 per emissions inspection and shall not exceed \$3,500 per year per complete set of emissions inspection equipment provided and utilized for emissions inspections. Such fees shall be remitted to the program coordinator on a monthly basis and shall not include free emissions inspections provided as part of program validation pursuant to subdivision 12. The program coordinator shall not be authorized to impose any additional fees upon an emissions inspection station.

12. Of the vehicles in the locality subject to emissions inspections, the program coordinator shall randomly select vehicles required to have a state safety inspection and have such vehicles undergo an unscheduled emissions inspection applicable for that area. On an annual basis, one-half of one percent of all vehicles in both the enhanced and basic emissions inspection areas shall undergo a program validation emissions inspection. Each licensed emissions station that provides state safety inspections shall agree to provide up to one free program validation emissions inspection per month, as selected and advised by the program coordinator.

C. The program coordinator shall (i) provide a fidelity bond in a reasonable amount to be determined by the Director to protect the Commonwealth against any insolvency or failure to perform by the program coordinator and (ii) agree to provide at least two months of services during a transition to another program coordinator upon the termination or nonrenewal of the program coordinator's agreement with the Director.

D. The agreement between the Director and the program coordinator shall provide that the program coordinator arrange for, pay the costs associated with, and supervise on-road testing using remote sensing. On-road testing using remote sensing shall be only as required by and in compliance with regulations of the U.S. Environmental Protection Agency, pursuant to regulations as may be adopted by the Board, limited to areas with enhanced emissions inspections, to complement but not substitute testing at emissions inspection stations, and may not be required in every season or on every vehicle. On-road testing using remote sensing shall not evaluate the emissions performance of more than 0.5 percent of the area's gross number of vehicles or 20,000 vehicles, whichever is less. However, upon recognition that program validation is acceptable in lieu of on-road testing using remote sensing, the program coordinator shall not be required to arrange for on-road testing using remote sensing.

§ 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.

182 ~~B. An~~ A basic emissions inspection program as required by regulations adopted by the Board under  
183 this article shall apply to motor vehicles that have actual gross weights of ~~8,500~~ 10,000 pounds or less  
184 and are registered or operated primarily, as defined by the Board in accordance with the provisions of  
185 the Administrative Process Act (§ 2.2-4000 et seq.), in the ~~Counties of Chesterfield, Hanover, and~~  
186 ~~Henrico and the Cities of Colonial Heights, Hopewell, and Richmond~~ counties and cities that are  
187 required by the federal Clean Air Act to implement and have in effect a basic emissions inspection  
188 program, and such counties and cities that are so designated by an Act of Assembly. Such emissions  
189 inspection program shall be a basic, test and repair program with the greatest number of inspection  
190 facilities consistent with the consumer protection and fee provisions herein as consistent with the federal  
191 Clean Air Act.

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

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

207 ~~C.B.~~ The enhanced emissions inspection program provided for in this subsection shall be a test and  
208 repair enhanced emissions inspection program with the greatest number of inspection facilities consistent  
209 with the consumer protection and fee provisions herein ~~and may include on-road testing and remote~~  
210 ~~sensing devices.~~ Any enhanced emissions inspection program provided for in this article shall apply to  
211 motor vehicles that have actual gross weights of 10,000 pounds or less that were actually manufactured  
212 or designated by the manufacturer as a model manufactured in a calendar year less than 25 calendar  
213 years prior to January 1 of the present calendar year and are registered or operated primarily, as defined  
214 by the Board in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) in  
215 the Counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford and the Cities of Alexandria,  
216 Fairfax, Falls Church, Manassas, and Manassas Park. *No other counties or cities shall have an enhanced*  
217 *emissions inspection program unless required by the federal Clean Air Act to implement and have in*  
218 *effect an enhanced emissions inspection program, or such counties and cities that are so designated by*  
219 *an Act of Assembly.*

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

224 The provisions of this subsection shall be effective ~~January 1, 1996, or~~ on such later date as may be  
225 provided by regulations of the Board. However, the provisions of this subsection may become effective  
226 immediately provided that ~~(i) (a) the federal~~ U.S. Environmental Protection Agency, pursuant to the  
227 federal Clean Air Act, formally and in writing approves the program for such localities; ~~(ii); (b) the~~  
228 Governor determines in writing that expedited promulgation of such regulations is in the best interest of  
229 the Commonwealth, determining that such shall constitute an "emergency situation" pursuant to  
230 § 2.2-4011.5; and ~~(iii) (c) the Governor~~ authorizes the Board to promulgate the regulations as emergency  
231 regulations in accordance with this section.

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

235 § 46.2-1178.1. On-road testing of motor vehicle emissions; authority to adopt regulations; civil  
236 charges.

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

243 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~~ 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 on-road testing indicates that a motor vehicle does not exceed emissions standards adopted by the Board for on-road testing pursuant to § 46.2-1179, 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.

*F. Any emissions inspection station that is also an official state safety inspection station shall be considered a referee station and shall agree to provide no more than one emissions inspection per month providing the motor vehicle has been randomly selected pursuant to criteria set forth by the Director and the emissions inspection is performed at the same time as the vehicle's state safety inspection. Such emissions inspections shall be for the purpose of program validation, shall be provided at no cost, and shall be the same tests performed for emissions inspections in that locality.*

§ 46.2-1179.1. Board to adopt clean alternative fuel fleet standards for motor vehicles; penalty.

A. For purposes of this section:

"Clean alternative fuel" means any fuel, including methanol, ethanol, other alcohols, reformulated gasoline, diesel, natural gases, liquified petroleum gas, hydrogen, and electricity or other power source used in a clean fuel vehicle that complies with the standards applicable to such vehicle under the federal Clean Air Act when using such fuel or other power source. In the case of a flexible fuel vehicle or dual fuel vehicle, "clean alternative fuel" means only a fuel for which the vehicle was certified when operating on clean alternative fuel.

"Fleet" means any centrally fueled fleet of ten or more motor vehicles owned or operated by a single entity. "Fleet" does not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers, motor vehicles used for manufacturer product tests, law-enforcement and other emergency vehicles, or nonroad vehicles, including farm and construction vehicles.

B. The Board may adopt by regulation motor vehicle clean alternative fuel fleet standards consistent with the provisions of Part C of Title II of the federal Clean Air Act for model years beginning with the model year 1998 or the first succeeding model year for which adoption of such standards is practicable. If adoption and implementation by the Board of an equivalent air pollution reduction program is approved by the ~~federal~~ U.S. Environmental Protection Agency, the regulation and program authorized by this section shall not become effective. Such regulations shall contain the minimum phase-in schedule contained in § 246 (b) of Part C of Title II of the *federal* Clean Air Act. However, nothing in this section shall preclude affected fleet owners from exceeding the minimum requirements of the federal Clean Air Act. Beginning in 1995 and upon adoption of the standards by the Board, the Board shall require the fleet owned by the federal government to meet the clean alternative fuel fleet standard and phase-in schedule established by the Board. If necessary to meet the Board's standards and phase-in schedule, the Board shall require fleets owned by the federal government to convert a portion of existing fleet vehicles to the use of clean alternative fuels as defined by the federal Clean Air Act. The standards specified in this subsection shall apply only to (i) motor vehicles registered in localities designated by the ~~federal~~ U.S. Environmental Protection Agency, pursuant to the federal Clean Air Act, as serious, severe, or extreme air quality nonattainment areas, or as maintenance areas formerly designated serious, severe, or extreme and (ii) motor vehicles not registered in the above-mentioned localities, but having either (a) a base of operations or (b) a majority of their annual travel in one or more of those localities.

C. An owner of a covered fleet shall not use any motor vehicle or motor vehicle engine which is manufactured during or after the first model year to which the standards specified in subsection A ~~of this section~~ are applicable, if such vehicle or engine is registered or has its base of operations in the localities specified in subsection B ~~of this section~~ and has not been certified in accordance with regulations promulgated by the Board. The Board may promulgate regulations providing for reasonable exemptions consistent with the provisions of Part C of Title II of the federal Clean Air Act. Motor

vehicles exempted from the provisions of this section shall forever be exempt.

D. Any person that violates the requirements of this section or any regulation adopted hereunder shall be subject to the penalties in §§ 46.2-1187 and 46.2-1187.2. Each day of violation shall be a separate offense, and each motor vehicle shall be treated separately in assessing violations.

E. In order to limit adverse economic and administrative impacts on covered fleets operating both in Virginia and in neighboring states, the Department of Environmental Quality shall, to the maximum extent practicable, coordinate the provisions of its regulations promulgated under this section with neighboring states' statutes and regulations relating to use of clean alternative fuels by motor vehicle fleets.

F. The State Corporation Commission, as to matters within its jurisdiction, and the Department of Environmental Quality, as to other matters, may, should they deem such action necessary, promulgate regulations necessary or convenient to ensure the availability of clean alternative fuels to operators of fleets covered by the provisions of this section. The State Air Pollution Control Board may delegate to the Commissioner of Agriculture its authority under the Air Pollution Control Law of Virginia, Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, to implement and enforce any provisions of its regulations covering the availability of clean alternative fuels. Upon receiving such delegation, the authority to implement and enforce the regulations under the Air Pollution Control Law of Virginia shall be vested solely in the Commissioner, notwithstanding any provision of law contained in Title 10.1, except as provided in this section. The State Air Pollution Control Board, in delegating its authority under this section, may make the delegation subject to any conditions it deems appropriate to ensure effective implementation of the regulations according to the policies of the State Air Pollution Control Board.

§ 46.2-1180. Board to adopt regulations; exemption of certain motor vehicles.

A. The Board is authorized to adopt such regulations for purposes of implementation, administration, and regulation as may be necessary to carry out the provisions of this article. Such regulations shall include but not necessarily be limited to requirements for the following:

1. The collection of data and maintenance of records of emissions inspection test results and vehicle repairs under this article and the inspection results of the air pollution control systems or devices in accordance with § 46.2-1048 and regulations of the Board.

2. The calibration of emissions testing equipment by emissions inspection stations to ensure conformance with the standards adopted by the Board.

3. The establishment of appropriate referee stations *in accordance with subsection F of § 46.2-1178.1*.

4. The permitting of emissions inspection stations and fleet emissions inspection stations and the licensing of emissions inspectors, including the suspension or revocation of such permit or license.

5. The protection of consumer interests in accordance with regulations of the Board concerning, but not limited to: (i) the number of inspection facilities and inspection lanes relative to population density, (ii) the proximity of inspection facilities to motor vehicle owners, (iii) the time spent waiting for inspections, and (iv) the days and hours of operation of inspection facilities.

6. The prohibition of any manufacturer or distributor of emissions testing equipment from directly or indirectly owning or operating any emissions testing facility or having any direct or indirect financial interest in any such facility other than the leasing of or providing financing for equipment related to emissions testing.

7. The certification of motor vehicle emissions repair technicians and emissions repair facilities, including the suspension or revocation of such certification. The regulations shall apply to emissions repair technicians and emissions repair facilities that conduct emissions-related repairs for vehicles that have failed a motor vehicle emissions test according to regulations adopted by the Board.

The Director shall administer these regulations and seek compliance with conditions of any contractual arrangements which the Commonwealth may make for inspection services related to air pollution control, *including the Director entering into an agreement with a program coordinator to implement provisions of this subsection*.

B. (For contingent expiration date, see Editor's note) Motor vehicles being titled for the first time may be registered for up to two years without being subject to an emissions inspection, and the four immediately preceding model years being held in a motor vehicle dealer's inventory for resale may be registered in the localities mentioned in subsection C of § 46.2-1178 for up to one year without being subject to an emissions inspection, provided that the dealer states in writing that the emissions equipment on the motor vehicle was operating in accordance with the manufacturer's or distributor's warranty at the time of resale.

B. (For contingent effective date, see Editor's note) Motor vehicles being titled for the first time may be registered for up to four years without being subject to an emissions inspection, and the four immediately preceding model years being held in a motor vehicle dealer's inventory for resale may be registered in the localities mentioned in subsection C of § 46.2-1178 for up to one year without being subject to an emissions inspection, provided that the dealer states in writing that the emissions

equipment on the motor vehicle was operating in accordance with the manufacturer's or distributor's warranty at the time of resale.

C. No motor vehicle for which the Board has not adopted emissions inspection standards shall be subject to an emissions inspection.

D. The Director may enter into bilateral agreements with other states providing for assistance in enforcing each state's statutes and regulations relating to motor vehicle emissions and motor vehicle emissions programs as to vehicles registered in one state and operated in another. Subject to such bilateral agreement, owners of motor vehicles registered in other states and operated in Virginia shall be subject to the on-road testing provisions of § 46.2-1178.1, and shall be notified of test results and assessment of civil charges for noncompliance with emissions standards adopted by the Board. Such notification shall also be provided to the appropriate motor vehicle agency in the state of registration.

§ 46.2-1181. Emissions inspection; cost of repairs; waivers.

A. A motor vehicle shall qualify for an emissions inspection waiver in the event that such vehicle has failed an initial inspection and subsequently failed a reinspection if the owner provides written proof that (i) at least the amount specified in this section has been spent by the owner on the maintenance and repair of the vehicle's engine and emission control system and related equipment and (ii) any emission control system or part thereof which has been removed, damaged, or rendered inoperable by any act enumerated in § 46.2-1048 has been replaced and restored to operating condition.

B. The Director shall establish and revise, as necessary, specifications and procedures for motor vehicle maintenance and repair of pollution control devices and systems.

C. For the purposes of subsection A of this section:

For motor vehicles subject to *basic* emissions inspections under subsection A of § 46.2-1178, cost limitations on repairs under the emissions inspection program, including parts and labor, but excluding costs of repairs covered by warranties, shall be \$175 for pre-1980 model vehicles and \$200 for 1980 and newer vehicles, *using 2012, or a later date if allowed by federal regulations and approved by the Board, as the base year and annually adjusted by the Consumer Price Index. The Board may phase in waiver amounts.*

For motor vehicles subject to *enhanced* emissions inspections under subsection ~~C~~ B of § 46.2-1178, the cost limitations *on repairs* shall be a base amount of \$450 per vehicle using 1990, or a later date if allowed by federal regulations and approved by the Board, as the base year and annually adjusted by the Consumer Price Index. The Board may phase in waiver amounts.

Repairs credited toward this waiver must be done by a repair technician certified in accordance with § 46.2-1180. Repairs shall include parts and labor.

~~D. For the purposes of subsection A of this section, for motor vehicles subject to emissions inspections under subsection B of § 46.2-1178, the cost limitations on repairs under the emissions inspection program, including parts and labor but excluding costs of repairs covered by warranties, shall be:~~

- ~~1. \$75 for pre-1981 vehicles; and~~
- ~~2. \$200 for 1981 and newer vehicles.~~

§ 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~~ A of § 46.2-1178 may charge for each *basic* 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~~ Each emissions inspection station performing emissions inspections under subsection ~~C~~ B of § 46.2-1178 may charge an amount not to exceed \$28.00 for each *enhanced* 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.

§ 46.2-1182.1. Additional registration fee; exemption.

~~Beginning July 1, 1994, in~~ In addition to any other fees imposed, at the time of registration by the Department of Motor Vehicles, the owner of any motor vehicle subject to registration in Virginia and subject to the program provided for in this article by virtue of the locality in which it is registered shall pay ~~two dollars~~ \$2 per year.

~~Beginning July 1, 1995, or later if~~ As required by regulation of the Board, owners of motor vehicles which are subject to the program by virtue of the location of their base of operation or the location where they are primarily operated shall remit a fee of ~~two dollars~~ \$2 per vehicle per year to the Department of Environmental Quality. Payment shall be made according to procedures and on a

428 schedule prescribed by the Department of Environmental Quality. State and local governmental units and  
429 agencies shall be exempt from the payment of fees under this subsection.

430 § 46.2-1182.2. Vehicle Emissions Inspection Program Fund established; use of moneys.

431 A special nonreverting fund known as the Vehicle Emissions Inspection Program Fund is hereby  
432 established in the state treasury.

433 Notwithstanding the provisions of § 2.2-1802, all moneys collected pursuant to § 46.2-1182.1 shall be  
434 paid into the treasury and credited to the Vehicle Emissions Inspection Program Fund.

435 No moneys remaining in the Fund at the end of each fiscal year shall revert to the general fund, but  
436 shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it.

437 The Department of Environmental Quality may release moneys from the Fund, on warrants issued by  
438 the State Comptroller, for covering the costs of the emissions inspection program, *including payment to*  
439 *the program coordinator for contracted services and the minimum funds necessary for required air*  
440 *quality monitoring and planning activities applicable only to nonattainment areas in Virginia. The*  
441 *moneys in this Fund may also be released for the purpose of long-term maintenance of air quality and*  
442 *the correction and prevention of nonattainment status for National Ambient Air Quality Standards*  
443 *through air quality programs under the direction of the Director. Any remaining funds shall be remitted*  
444 *for use in transportation maintenance projects as follows:*

445 1. Funds generated from localities required to have emissions inspections pursuant to subsection A of  
446 § 46.2-1178 shall have such remaining funds generated pursuant to § 46.2-1182.1 transferred on an  
447 annual basis to the localities required to provide basic emissions inspections. Such funds shall be  
448 transferred to each applicable locality on a pro-rated basis based on the number of vehicles inspected  
449 in that locality. Such funds shall be used for transportation maintenance in that respective locality.

450 2. Funds generated from localities required to have emissions inspections pursuant to subsection B of  
451 § 46.2-1178 shall have such remaining funds generated pursuant to § 46.2-1182.1 transferred on an  
452 annual basis to the Northern Virginia Transportation District. Such funds shall be used for  
453 transportation maintenance in the respective locality.

454 3. Should any locality not listed in subsection B of § 46.2-1178 and not a member of the Northern  
455 Virginia Transportation District be required to have an enhanced emissions inspection program, such  
456 funds generated pursuant to § 46.2-1182.1 shall be transferred to each applicable locality on a  
457 pro-rated basis based on the number of vehicles inspected in that locality. Such funds shall be used for  
458 transportation maintenance in the respective locality.

459 § 46.2-1187.1. Right of entry.

460 Whenever it is necessary for the purposes of this article, the ~~Executive~~ Director or his duly  
461 authorized agent or employee at reasonable times may enter any establishment or upon any public or  
462 private property to obtain information or conduct surveys, audits, or investigations.

463 § 46.2-1187.3. Vehicles used for investigations.

464 Motor vehicles owned by the Commonwealth and used solely for investigations pursuant to this  
465 article may be issued the same license plates as those issued for vehicles owned by private citizens. The  
466 ~~Executive~~ Director shall certify under oath to the Commissioner of the Department of Motor Vehicles  
467 the vehicles to be used solely for such investigations.