

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 838

*An Act to amend and reenact §§ 46.2-1176, 46.2-1178, and 46.2-1180 of the Code of Virginia, relating to motor vehicle emissions inspections.*

[S 275]

Approved April 20, 1994

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

**1. That §§ 46.2-1176, 46.2-1178, and 46.2-1180 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:

"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 which 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 including test procedures, emissions standards, and equipment as provided in regulations of the federal Environmental Protection Agency and consistent with applicable requirements established by regulations of the Board which shall include selection of the most cost effective equipment to perform test procedures which meet emissions standards established by the Board to reduce air pollution from motor vehicles as required by applicable provisions of Title I of the Clean Air Act.

"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 which:

1. Was manufactured for the 1968 model year or a more recent model year;
2. Is designed for the transportation of persons or property;
3. Is more than one year old, calculated from the date such motor vehicle was first titled; and
4. Is powered by an internal combustion engine.

The term "motor vehicle" does not include any:

1. Vehicle powered by a diesel engine or powered by a clean special fuel as defined in § 58.1-2101, providing provisions of the Clean Air Act permit such exemption for vehicles powered by a clean special fuel;

2. Motorcycle;

3. Vehicle which, at the time of its manufacture, was not designed to meet emissions standards set or approved by the federal government; or

4. Any antique motor vehicle as defined in § 46.2-100 and licensed pursuant to § 46.2-730.

"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.

~~"Test only"~~ *"Test and repair"* means motor vehicle emissions inspection facilities that perform only official motor vehicle emissions inspections and such other procedures and functions as permitted by regulations of the Board may also perform vehicle repairs. *No regulation of the Board pertaining to test and repair shall bar inspection facilities from also performing vehicle repairs.*

"Test only" means motor vehicle emissions inspection facilities that perform only official motor vehicle emissions inspections and such other procedures and functions as permitted by regulations of the Board.

§ 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 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 same emissions inspections program required for motor vehicles registered in any locality specified in this subsection shall also apply to Virginia-registered motor vehicles that are not registered in that locality, but have a base of operations in that locality. 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, and (iii) motor vehicles owned by leasing or rental companies. The provisions of this subsection shall become effective July 1, 1994. *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, 1995; or (ii) the date on which the Federal Environmental Protection Agency, pursuant to the Clean Air Act, formally and in writing disapproves the redesignation request for such localities submitted on November 15, 1992 or on such later date as may be provided by regulations of the Board. If the Governor shall determine in writing that expedited promulgation of such regulations is in the best interest of the Commonwealth, such determination shall constitute an "emergency situation" pursuant to § 9-6.14:4.1 C 5 and the Governor may at his discretion authorize the Board to promulgate the regulations as emergency regulations in accordance with that section.*

C. The emissions inspection program provided for in this subsection shall be a ~~test-only test and repair~~ enhanced emissions inspection program with the greatest number of inspection facilities consistent with the consumer protection and fee provisions herein; ~~unless changing performance standard requirements under Section 182 (e) of the Clean Air Act allow consideration and approval of a test and repair program in which case the Department of Environmental Quality shall include a test and repair program as a part of its submission under Section 140 of the Clean Air Act and may include road testing devices.~~ Any enhanced emissions inspection program provided for in this article shall apply to motor vehicles that have actual gross weights of 26,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Fauquier, Loudoun, Prince William, and Stafford and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

The same ~~test-only test and repair~~ enhanced emissions inspection program or an equivalent program required for motor vehicles registered in any locality specified in this subsection shall also apply to Virginia-registered motor vehicles that are not registered in that locality, but have base of operations in that locality. 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, and (iii) vehicles owned by leasing or rental companies.

The provisions of this subsection shall be effective January 1, 1995, or on such later date as may be provided by regulations of the Board. The Director shall not enter into any agreements or contracts to implement the provisions of this section prior to February 1, 1994.

D. *Notwithstanding any other provision of this section, the Governor may at any time determine in writing that the requirements of federal law or regulation or changes in emissions by motor vehicles or other sources of air pollution in the localities mentioned in subsection C of this section warrant the adoption of an enhanced test only emissions inspection program consistent with regulations promulgated in accordance with Title I of the federal Clean Air Act. In that event, he shall direct the Board pursuant to its authority under this section and §§ 46.2-1179 and 46.2-1180 to adopt regulations to implement a test only program for those localities to replace any test and repair programs adopted hereunder. Such test only program shall be implemented as soon as practicable and economically feasible following submission by the Governor of the State Implementation Plan.*

*Any emissions inspection program regulations in effect at the time the 1994 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.*

§ 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 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.
4. The permitting of emissions inspection stations and fleet emissions inspection stations and the licensing of station personnel.

5. The protection of consumer interests in accordance with regulations of the ~~Environmental Protection Agency 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.

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.

~~B. If an enhanced test-only emissions inspection program is adopted,~~ 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 ~~B~~ 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.

**2. That an emergency exists and this act is in force from its passage.**