

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 35

An Act to amend and reenact §§ 46.2-1178.1 and 46.2-1183 of the Code of Virginia, relating to on-road testing for motor vehicle emissions.

[S 275]

Approved March 4, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1178.1 and 46.2-1183 of the Code of Virginia are amended and reenacted as follows:

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

A. The emissions inspection program authorized by § 46.2-1177 and provided for in § 46.2-1178 shall include on-road testing of motor vehicle emissions. The Board may 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 (§ 9-6.14:1 et seq.).

C. Civil charges assessed pursuant to this section shall be waived by the Board if, within ninety 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 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.

§ 46.2-1183. Emissions inspection required prior to registration of certain vehicles; records.

No vehicle subject to the provisions of this article shall be registered or reregistered until it has passed an emissions inspection or has been issued an emissions inspection waiver. Any (i) proof of compliance with emissions standards and emissions inspection requirements and (ii) emissions inspection waiver issued for any motor vehicle shall be valid for two years from the end of the month in which it is issued, regardless of any sale or trade of the motor vehicle for which either document was issued during that time, *unless such motor vehicle has failed on-road testing pursuant to § 46.2-1178.1 and has not subsequently passed an emissions inspection or received a waiver.* Motor vehicles being titled for the first time shall be considered to have valid emissions inspection certificates for a period of two years from the month of first titling. The Commissioner of Motor Vehicles may enter into an agreement with the Director whereby the Department of Motor Vehicles may refuse to register or reregister those motor vehicles subject to emissions inspection programs set forth in this article if the registration period for such vehicles exceeds the valid emissions inspection period by a period of time to be determined by the Director in consultation with the Department of Motor Vehicles and the Commissioner.

Owners of motor vehicles that are not registered with the Department of Motor Vehicles shall maintain such records pertaining to all vehicles located or operated in the areas specified in § 46.2-1178 as the Board may by regulation require. Such records shall contain proof of compliance with this article and be made available to the Department of Environmental Quality upon the Department's request.