

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 401

An Act to amend and reenact § 46.2-1179.1 of the Code of Virginia, relating to clean alternative fuel vehicle fleets.

[S 633]

Approved April 12, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1179.1 of the Code of Virginia is amended and reenacted as follows:

§ 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 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 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 the Counties of Arlington, Caroline, Charles City, Chesterfield, Fairfax, Fauquier, Hanover, Henrico, James City, Loudoun, Prince William, Stafford, and York and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Hampton, Hopewell, Manassas, Manassas Park, Newport News, Norfolk, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg *localities designated by the federal 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.