

Assembly Bill No. 2683

CHAPTER 704

An act to amend Section 44011 of the Health and Safety Code, and to amend Sections 4000.1 and 4000.2 of the Vehicle Code, relating to air pollution.

[Approved by Governor September 23, 2004. Filed with Secretary of State September 23, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, Lieber. Air pollution: smog check.

(1) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law requires the Department of Motor Vehicles to require any motor vehicle subject to those requirements to demonstrate compliance with those requirements. Existing law also establishes an enhanced motor vehicle inspection and maintenance program (smog check II) in each urbanized area of the state, any part of which is classified by the United States Environmental Protection Agency as a serious, severe, or extreme nonattainment area for specified air contaminants. Existing law also requires the smog tests to include, at minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed testing in all other program areas, and a visual or functional check of emission control devices specified by the department. Existing law exempts from those requirements, until January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year, and after that date, any motor vehicle that is 30 or more model-years old.

This bill would instead, commencing April 1, 2005, exempt from the smog check requirements, and the smog check compliance requirements, any motor vehicle manufactured prior to the 1976 model-year.

Existing law exempts from existing smog check requirements, any motor vehicle 4 or less model-years old and also exempts any motor vehicle up to 6 model-years old, unless the state board determines that the exemption would prohibit the state from meeting specified requirements of the federal Clean Air Act.

This bill would, commencing April 1, 2005, make the exemption for any motor vehicle 4 or less model-years old inapplicable if the state board makes those same determinations regarding the requirements of the federal act.

The bill would also provide that, commencing April 1, 2005, defined collector motor vehicles for which proof of insurance is submitted on that basis in accordance with regulations of the Bureau of Automotive Repair, and that are at least 35 model-years old, shall be subject to otherwise applicable exhaust emissions standards, but shall not be required to pass a visual and functional inspection of emission equipment, other than a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.

(2) Under existing law, the Department of Motor Vehicles, with certain exceptions, is required to obtain submission of a valid smog check certificate of compliance or noncompliance, as appropriate, in order to register a motor vehicle previously registered outside the state. Among other exemptions, from this requirement, existing law exempts 1965 or earlier model-year motor vehicles.

This bill, commencing April 1, 2005, would instead apply the model-year exemption that is applicable to vehicles registered in this state. The bill would also make technical clarifying changes.

(3) Existing law makes any violation of the smog check requirements a misdemeanor.

To the extent that the bill would impose the smog check requirements on additional vehicles on and after April 1, 2005, this bill would impose a state-mandated local program by expanding the scope of a crime.

(4) This bill would render inoperative on and after April 1, 2005, the amendments to Sections 43843 and 44004 of the Health and Safety Code proposed by SB 1615, if this bill is enacted after SB 1615.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature, in enacting the act adding this section, to ensure that vehicles, of the 1975 model-year and older are permanently exempted from the biennial compliance requirement of the motor vehicle inspection and maintenance (smog check) program.



(b) It is further the intent of the Legislature to ensure that the Department of Motor Vehicles and the Department of Consumer Affairs have adequate time to comply with the requirements of the act adding this section by delaying the operation of the act until April 1, 2005.

SEC. 2. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

(3) Any motor vehicle manufactured prior to the 1976 model-year.

(4) (A) Except as provided in subparagraph (B), any motor vehicle four or less model-years old.

(B) Beginning January 1, 2005, any motor vehicle six or less model-years old, unless the state board finds that providing an exception for these vehicles will prohibit the state from meeting the requirements of Section 176(c) of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect to the state implementation plan required by the federal Clean Air Act.

(C) Any motor vehicle excepted by this paragraph shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

(ii) The vehicle was previously registered outside this state and is undergoing initial registration in this state.

(iii) The vehicle is being registered as a specially constructed vehicle.

(iv) The vehicle has been selected for testing pursuant to Section 44014.7 or any other provision of this chapter authorizing out-of-cycle testing.

(5) In addition to the vehicles exempted pursuant to paragraph (4), any motor vehicle or class of motor vehicles exempted pursuant to subdivision (b) of Section 44024.5. It is the intent of the Legislature that the department, pursuant to the authority granted by this paragraph,



exempt at least 15 percent of the lowest emitting motor vehicles from the biennial smog check inspection.

(6) Any motor vehicle that the department determines would present prohibitive inspection or repair problems.

(7) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

(c) For purposes of subdivision (a), any collector motor vehicle, as defined in Section 259 of the Vehicle Code, is exempt from those portions of the test required by subdivision (f) of Section 44012 if the collector motor vehicle meets all of the following criteria:

(1) Submission of proof that the motor vehicle is insured as a collector motor vehicle, as shall be required by regulation of the bureau.

(2) The motor vehicle is at least 35 model-years old.

(3) The motor vehicle complies with the exhaust emissions standards for that motor vehicle's class and model-year as prescribed by the department, and the motor vehicle passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.

SEC. 3. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(b) With respect to new motor vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

(d) Subdivision (a) does not apply to a transfer of ownership and registration under any of the following circumstances:



(1) The initial application for transfer is submitted within the 90-day validity period of a smog certificate as specified in Section 44015 of the Health and Safety Code.

(2) The transferor is the parent, grandparent, sibling, child, grandchild, or spouse of the transferee.

(3) A motor vehicle registered to a sole proprietorship is transferred to the proprietor as owner.

(4) The transfer is between companies whose principal business is leasing motor vehicles, if there is no change in the lessee or operator of the motor vehicle or between the lessor and the person who has been, for at least one year, the lessee's operator of the motor vehicle.

(5) The transfer is between the lessor and lessee of the motor vehicle, if there is no change in the lessee or operator of the motor vehicle.

(6) The motor vehicle was manufactured prior to the 1976 model-year.

(7) Beginning January 1, 2005, the transfer is for a motor vehicle that is four or less model-years old. The department shall impose a fee of eight dollars (\$8) on the transferee of a motor vehicle that is four or less model-years old. Revenues generated from the imposition of that fee shall be deposited into the Vehicle Inspection and Repair Fund.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the department of that action.

(f) Subdivision (a) does not apply to a motor vehicle when an additional individual is added as a registered owner of the motor vehicle.

(g) For purposes of subdivision (a), any collector motor vehicle, as defined in Section 259, is exempt from those portions of the test required by subdivision (f) of Section 44012 of the Health and Safety Code, if the collector motor vehicle meets all of the following criteria:

(1) Submission of proof that the motor vehicle is insured as a collector motor vehicle, as shall be required by regulation of the bureau.

(2) The motor vehicle is at least 35 model-years old.

(3) The motor vehicle complies with the exhaust emissions standards for that motor vehicle's class and model year as prescribed by the department, and the motor vehicle passes a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.

SEC. 4. Section 4000.2 of the Vehicle Code is amended to read:

4000.2. (a) Except as otherwise provided in subdivision (b) of Section 43654 of the Health and Safety Code, and, commencing on April 1, 2005, except for model-years exempted from biennial inspection pursuant to Section 44011 of the Health and Safety Code, the department shall require upon registration of a motor vehicle subject to Part 5



(commencing with Section 43000) of Division 26 of the Health and Safety Code, previously registered outside this state, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(b) For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

SEC. 5. The amendments to Sections 43843 and 44004 of the Health and Safety Code proposed by Senate Bill 1615, if enacted, shall not be operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. This act shall become operative on April 1, 2005.

