

Assembly Bill No. 787

Passed the Assembly August 27, 2010

Chief Clerk of the Assembly

Passed the Senate August 25, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 44062.1 , 44062.3, and 44125 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL’S DIGEST

AB 787, Hill. Smog check: vehicle repair assistance and retirement program.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs (the department). The duty of enforcing and administering the program is vested in the Chief of the Bureau of Automotive Repair within the department. The owner of a motor vehicle that has failed its most recent smog check inspection has the right to retire the vehicle from operation at a dismantler under contract with the Bureau of Automotive Repair, and the department is required to pay this person up to \$1,500, or more if cost effective.

This bill would instead require the department to pay a person who retires his or her vehicle \$1,500 for a low-income motor vehicle owner, as defined, and \$1,000 for all other motor vehicle owners, and would authorize additional payments above these amounts based on consideration of specified criteria. The bill would require the department to permit vehicle retirement for any motor vehicle that has been continuously registered in the state for at least 2 years prior to vehicle retirement, and that fails any type of smog check inspection lawfully performed in the state.

Existing law also creates an enhanced fleet modernization program for the retirement of high polluting vehicles to be administered by the Bureau of Automotive Repair pursuant to guidelines adopted by the State Air Resources Board.

This bill would require retirement payments made pursuant to that program to also be \$1,500 for a low-income motor vehicle owner and \$1,000 for all other motor vehicle owners, and would authorize additional payments above these amounts based on the same criteria as in the vehicle retirement program discussed above.

(2) Existing law provides for a repair assistance program available to an individual whose maximum income level is 185%

of the federal poverty level, or 225% of the federal poverty level if a certain determination is made, and who is the owner of a motor vehicle that has failed a smog check inspection or received a notice to correct, or an individual who has failed a smog check inspection and is directed to a test-only facility.

This bill would make the repair assistance program available only to low-income individuals whose income does not exceed 225% of the federal poverty level, as specified. The bill would make other conforming changes, and delete obsolete provisions of law.

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

SECTION 1. Section 44062.1 of the Health and Safety Code is amended to read:

44062.1. (a) The department shall offer a repair assistance program through entities authorized to perform referee functions.

(b) (1) The repair assistance program shall be available to an individual who is a low-income motor vehicle owner, and who is either or both of the following:

(A) The owner of a motor vehicle that has failed a smog check inspection.

(B) The owner of a motor vehicle who was issued a notice to correct for an alleged violation of Section 27153 or 27153.5 of the Vehicle Code involving that vehicle, if the vehicle subject to that notice has failed a smog check inspection subsequent to receiving the notice.

(2) The department shall offer repair cost assistance to individuals based on the cost-effectiveness and air quality benefit of the needed repair. Repair assistance may include retesting costs and the costs of repairs to remedy the violation of Section 27153 or 27153.5 of the Vehicle Code.

(3) An applicant for repair assistance shall file an application on a form prescribed by the department, and shall certify under penalty of perjury that the applicant meets the applicable eligibility standards.

(4) Verification of income eligibility shall be based on at least one form of documentation, as determined by the department, including, but not limited to, (A) an income tax return, (B) an

employment warrant, or (C) a form of public assistance verification.

(c) The repair assistance program shall be funded by the High Polluter Repair or Removal Account.

(d) Repairs to motor vehicles that fail smog check inspections and are subsidized by the state through the program shall be performed at a repair station licensed and certified pursuant to Sections 44014 and 44014.2. Repairs shall be based upon a preapproved list of repairs for cost-effective emission reductions or repairs to remedy a violation of Section 27153 or 27153.5 of the Vehicle Code.

(e) The qualified low-income motor vehicle owner receiving repair assistance pursuant to this section shall contribute a copayment, as determined by the department, either in cash, or in emissions-related partial repairs as verified by a test-only station pursuant to paragraph (2) of subdivision (c) of Section 44015, or a combination thereof. If the repair cost exceeds the applicable repair cost limit, the department shall inform a motor vehicle owner of all options for compliance at the time of testing and repair.

(f) The department may increase its contribution toward the repair of a motor vehicle under this program in excess of the amount authorized for the repair of a high polluter pursuant to paragraph (1) of subdivision (b) of Section 44094, if the department determines that the expenditure is cost effective. In determining the cost-effectiveness of the expenditure, the department shall consider a failure of the visible smoke test, pursuant to Section 44012.1, and the costs associated with repairing a smoking vehicle.

(g) The department shall collect data from the program to provide information to develop recommendations to improve the program. Data collection shall include all of the following:

(1) The number of motor vehicle owners that are eligible for repair assistance.

(2) The number of eligible motor vehicle owners that use repair assistance funds.

(3) The potential for fraud.

(4) The average repair bills.

(5) The types of repairs being done.

(6) The amount of partial repairs done prior to receipt of repair assistance.

(7) The emissions benefits of providing repair assistance.

(h) For purposes of this section, “low-income motor vehicle owner” means a person whose income does not exceed 225 percent of the federal poverty level, as published quarterly in the Federal Register by the United States Department of Health and Human Services.

SEC. 2. Section 44062.3 of the Health and Safety Code is amended to read:

44062.3. (a) The owner of a motor vehicle that has been continuously registered in the state for at least two years prior to vehicle retirement, and that has failed the most recent smog check inspection for that vehicle, may retire the vehicle from operation at a dismantler under contract with the Bureau of Automotive Repair, at any time after learning of the smog check failure. The department shall pay a person who retires his or her vehicle under this section one thousand five hundred dollars (\$1,500) for a low-income motor vehicle owner, as defined in Section 44062.1, and one thousand dollars (\$1,000) for all other motor vehicle owners. The department may pay a motor vehicle owner more than these amounts based on factors, including, but not limited to, the age of the vehicle, the emission benefit of the vehicle’s retirement, the emission impact of any replacement vehicle, and the location of the vehicle in an area of the state with the poorest air quality.

(b) The department shall permit vehicle retirement pursuant to subdivision (a) for any motor vehicle that has been continuously registered in the state for at least two years prior to vehicle retirement, and that fails any type of smog check inspection lawfully performed in the state.

SEC. 3. Section 44125 of the Health and Safety Code is amended to read:

44125. (a) No later than July 1, 2009, the state board, in consultation with the Bureau of Automotive Repair (BAR), shall adopt a program to commence on January 1, 2010, that allows for the voluntary retirement of passenger vehicles and light-duty and medium-duty trucks that are high polluters. The program shall be administered by the BAR pursuant to guidelines adopted by the state board.

(b) The guidelines shall ensure all of the following:

(1) Vehicles retired pursuant to the program are permanently removed from operation and retired at a dismantler under contract with the BAR.

(2) Districts retain their authority to administer vehicle retirement programs otherwise authorized under law.

(3) The program is available for high polluting passenger vehicles and light-duty and medium-duty trucks that have been continuously registered in California for two years prior to acceptance into the program or otherwise proven to have been driven primarily in California for the last two years and have not been registered in another state or country in the last two years.

(4) The program is focused where the greatest air quality impact can be identified.

(5) Compensation for retired vehicles shall be one thousand five hundred dollars (\$1,500) for a low-income motor vehicle owner, as defined in Section 44062.1, and one thousand dollars (\$1,000) for all other motor vehicle owners. The department may pay a motor vehicle owner more than these amounts based on factors including, but not limited to, the age of the vehicle, the emission benefits of the vehicle's retirement, the emission impact of any replacement vehicle, and the location of the vehicle in an area of the state with the poorest air quality.

(6) Cost-effectiveness and impacts on disadvantaged and low-income populations are considered.

SEC. 4. The savings created by the amendments made to Section 44062.1 of the Health and Safety Code by Section 1 of this act shall be used exclusively to fund retirement payments pursuant to Section 44062.3 of the Health and Safety Code.

Approved _____, 2010

Governor