

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 859

Introduced by Assembly Member Jones

February 26, 2009

An act to amend Sections ~~44062.1~~ 44024.5, 44062.1, and 44094 of, and to add Section 44012.7 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 859, as amended, Jones. Smog check: annual inspection: repair assistance 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 smog check program provides for the inspection of a motor vehicle, among other circumstances, upon its registration, upon transfer of ownership, and for vehicles registered in certain areas of the state, biennially. Some motor vehicles, including any motor vehicle manufactured prior to the 1976 model year, are exempt from biennial inspection. The department is required to charge a fee to a smog check station for each motor vehicle inspection, as provided. Violations of the smog check requirements constitute a crime.

Existing law creates the High Polluter Repair or Removal Account, and makes available, upon appropriation by the Legislature, all money in the account to the State Air Resources Board and the department to establish and implement a program for the repair or replacement of high polluting motor vehicles.

This bill would require the department to incorporate the annual inspection of motor vehicles that are models ~~which~~ *that* are 15 years old or greater into the motor vehicle inspection and maintenance program by January 1, ~~2010~~ 2011, and would require funds generated through additional inspection fees to be deposited into the High Polluter Repair or Removal Account.

~~By expanding the definition of an existing crime increasing the number of motor vehicles subject to the criminal penalties of the existing smog check program,~~ this bill would impose a state-mandated local program.

The bill would exempt all vehicles not subject to biennial inspection, and ~~would authorize the department to exempt other vehicles or classes of vehicles determined by the department to be likely to pass the annual inspection from annual inspection, as provided.~~

(2) Existing law provides for a repair assistance program available to an individual whose maximum income level is 185% of the federal poverty level 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. Existing law provides that the department may increase its contribution toward the repair of a motor vehicle in excess of \$450, if the department determines that the expenditure is cost effective.

This bill would increase this amount to \$750. The bill would make the repair assistance program only available to low-income individuals, and would change the maximum income level to 300% of the federal poverty level. The bill would make other conforming changes, and delete obsolete provisions of law.

(3) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 44012.7 is added to the Health and Safety
- 2 Code, to read:

1 44012.7. (a) The department shall incorporate the annual
2 inspection of motor vehicles that are models ~~which~~ *that* are 15
3 years old or greater into the motor vehicle inspection and
4 maintenance program by January 1, ~~2010~~ 2011.

5 (b) *The department shall not subject to annual inspection any*
6 *of the following:*

7 (1) *Motor vehicles that are model years that are 14 years old*
8 *or newer.*

9 (2) *Motor vehicles that are not subject to biennial inspection,*
10 *including vehicles exempted by Section 44011.*

11 (3) *Motor vehicles exempted from annual inspection pursuant*
12 *to Section 44024.5.*

13 ~~(b)~~

14 (c) All funds generated through additional inspection fees shall
15 be deposited into the High Polluter Repair or Removal Account
16 created by Section 44091.

17 ~~(e) The department shall develop a vehicle emissions profile~~
18 ~~that identifies vehicles or classes of vehicles that are likely to pass~~
19 ~~annual inspection. The department shall revise this profile annually.~~

20 ~~(d) Both of the following are exempt from the annual inspection:~~

21 ~~(1) All vehicles not subject to biennial inspection, including~~
22 ~~vehicles exempted by Section 44011.~~

23 ~~(2) All vehicles or classes of vehicles determined by the~~
24 ~~department to be likely to pass the annual inspection pursuant to~~
25 ~~subdivision (e).~~

26 *SEC. 2. Section 44024.5 of the Health and Safety Code is*
27 *amended to read:*

28 44024.5. (a) The department shall compile and maintain
29 statistical and emissions profiles of motor vehicles that are subject
30 to the motor vehicle inspection program. The department may use
31 data from any source, including remote sensing data and other
32 motor vehicle inspection program data, to develop and confirm
33 the validity of the profiles.

34 (b) The department, in cooperation with the state board, shall
35 perform ~~periodic~~ *biennial* analyses of the statistical and emissions
36 profiles created pursuant to subdivision (a). The department and
37 the state board, in consultation with the Inspection and Maintenance
38 Review Committee, may determine that, in addition to the vehicles
39 excepted pursuant to Section 44011, ~~certain~~ other motor vehicles
40 may be excepted from the *annual or* biennial certification

1 requirements of this chapter without significantly compromising
2 the emission reduction objectives set forth in the State
3 Implementation Plan (SIP).

4 (c) The department may conduct a pilot program to except from
5 the *annual or* biennial certification requirement those vehicles that
6 may be jointly determined by the department and the state board,
7 after consultation with the Inspection and Maintenance Review
8 Committee, to warrant exception. The department shall provide
9 written notification to the Legislature specifying the number of
10 vehicles to be exempted as well as the geographic location and
11 duration of the pilot program not less than 30 days prior to the
12 implementation of the pilot program. The department shall submit
13 the results of the pilot program to the state board and the Inspection
14 and Maintenance Review Committee for review. Subject to the
15 approval of the United States Environmental Protection Agency
16 as an amendment to the SIP, the department may establish the
17 exception program as a permanent program.

18 (d) For vehicles four model years old or less, the department
19 shall use test data generated pursuant to Section 44014.7 to develop
20 statistical and emissions profiles. The department may use data
21 from any source, including remote sensing data, warranty repair
22 and recall data, and other motor vehicle inspection program data,
23 to develop and confirm the validity of the data. If the department
24 and state board jointly determine that the emissions from a class
25 of motor vehicles would potentially compromise the emission
26 reduction objectives set forth in the SIP, the state board shall
27 consider appropriate corrective action, including, but not limited
28 to, recall pursuant to Section 43105.

29 ~~SEC. 2.~~

30 *SEC. 3.* Section 44062.1 of the Health and Safety Code is
31 amended to read:

32 44062.1. (a) The department shall offer a repair assistance
33 program through entities authorized to perform referee functions.

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

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

39 (B) The owner of a motor vehicle who was issued a notice to
40 correct for an alleged violation of Section 27153 or 27153.5 of the

1 Vehicle Code involving that vehicle, if the vehicle subject to that
2 notice has failed a smog check inspection subsequent to receiving
3 the notice.

4 (2) The department shall offer repair cost assistance, ~~funded by~~
5 ~~the High Polluter Repair or Removal Account in the Vehicle~~
6 ~~Inspection and Repair Fund created pursuant to subdivision (a) of~~
7 ~~Section 44091~~, to individuals based on the cost-effectiveness and
8 air quality benefit of the needed repair. Repair assistance may
9 include retesting costs and the costs of repairs to remedy the
10 violation of Section 27153 or 27153.5 of the Vehicle Code.

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

15 (4) Verification of income eligibility shall be based on at least
16 one form of documentation, as determined by the department,
17 including, but not limited to, (A) an income tax return, (B) an
18 employment warrant, or (C) a form of public assistance
19 verification.

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

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

29 (e) The qualified low-income motor vehicle owner receiving
30 repair assistance pursuant to this section shall contribute a
31 copayment, as determined by the department as specified in Section
32 44017.1, either in cash, or in emissions-related partial repairs as
33 verified by a test-only station pursuant to paragraph (2) of
34 subdivision (c) of Section 44015, or a combination thereof. If the
35 repair cost exceeds the applicable repair cost limit, the department
36 shall inform a motor vehicle owner of all options for compliance
37 at the time of testing and repair.

38 (f) The department may increase its contribution toward the
39 repair of a motor vehicle under this program in excess of the
40 amount authorized for the repair of a high polluter pursuant to

1 paragraph (1) of subdivision (b) of Section 44094, if the department
2 determines that the expenditure is cost effective. In determining
3 the cost effectiveness of the expenditure, the department shall
4 consider a failure of the visible smoke test, pursuant to Section
5 44012.1, and the costs associated with repairing a smoking vehicle.

6 (g) The department shall collect data from the program to
7 provide information on how to improve the program. Data
8 collection shall include all of the following:

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

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

13 (3) The potential for fraud.

14 (4) The average repair bills.

15 (5) The types of repairs being done.

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

18 (7) The emissions benefits of providing repair assistance.

19 (h) For purposes of this section, “low-income motor vehicle
20 owner” means a person whose income does not exceed 300 percent
21 of the federal poverty level, as published quarterly in the Federal
22 Register by the Department of Health and Human Services.

23 ~~SEC. 3.~~

24 *SEC. 4.* Section 44094 of the Health and Safety Code is
25 amended to read:

26 44094. (a) Participation in the high polluter repair or removal
27 program specified in this article and Article 10 (commencing with
28 Section 44100) shall be voluntary and shall be available to the
29 owners of high polluters that are registered in an area that is subject
30 to an inspection and maintenance program, have been registered
31 for at least 24 months in the district where the credits are to be
32 applied and, are presently operational, and meet other criteria, as
33 determined by the department.

34 (b) The program shall provide for both of the following:

35 (1) As to the repair of a high polluter, payment to the owner of
36 up to 80 percent of the total cost of repair, as determined by the
37 department, but the payment shall not exceed seven hundred fifty
38 dollars (\$750).

39 (2) As to the removal of a high polluter, the program shall be
40 subject to Article 10 (commencing with Section 44100).

1 (c) Except as provided in Section 44062.3, the department may
2 specify the amount of money that may be paid to an owner of a
3 high-polluting motor vehicle who voluntarily retires the vehicle.
4 The amount paid by the department shall be based on the
5 cost-effectiveness and the air quality benefit of retiring the vehicle,
6 as determined by the department.

7 (d) The department may authorize participation in the program
8 based on a reasonable estimate of the future revenues that will be
9 available to the program.

10 ~~SEC. 4.~~

11 *SEC. 5.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.