

AMENDED IN ASSEMBLY APRIL 24, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1460

Introduced by Assembly Member Morrissey

February 24, 1995

An act to ~~repeal~~ *amend* Section 44011.6 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1460, as amended, Morrissey. Air pollution: heavy-duty vehicles: smoke emissions.

Existing law requires the State Air Resources Board to develop a test procedure and to adopt regulations prohibiting the use of heavy-duty motor vehicles which have excessive smoke emissions, and provides for the enforcement of those provisions, including requiring the vehicle owner to immediately correct deficiencies, and to pay a specified civil penalty.

This bill would ~~repeal those provisions~~ *delete the provisions requiring the state board to adopt those regulations. The bill would prohibit the use of any heavy-duty motor vehicle with excessive smoke emissions or other emissions-related defects, except as to vehicle engines of the 1994 and subsequent model years, and would make related changes.*

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

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

1 ~~SECTION 1. Section 44011.6 of the Health and Safety~~
2 ~~Code is repealed.~~

3 *SECTION 1. The Legislature hereby finds and*
4 *declares that significant progress has been made in*
5 *reducing excessive smoke and other emissions from*
6 *heavy-duty engines. The Legislature, in enacting this act,*
7 *declares its intent that the objective of Section 44011.6 of*
8 *the Health and Safety Code is to promote the repair or*
9 *replacement of heavy-duty gross emitters of smoke. It is*
10 *the intent of the Legislature that the State Air Resources*
11 *Board work with its counterparts in other states and with*
12 *the Environmental Protection Agency to establish a*
13 *definition of excessive smoke emissions as measured by*
14 *the test adopted pursuant to Section 44011.6 that is*
15 *consistent with the excessive smoke definitions adopted*
16 *by other states to ensure uniformity of test results for*
17 *trucks operating in interstate commerce.*

18 *SEC. 2. Section 44011.6 of the Health and Safety Code*
19 *is amended to read:*

20 44011.6. (a) (1) As expeditiously as possible, the
21 state board shall develop a test procedure for the
22 detection of excessive smoke emissions from heavy-duty
23 diesel motor vehicles that is feasible for use in an
24 intermittent roadside inspection program. During the
25 development of the test procedure, the state board shall
26 cooperate with the Department of the California
27 Highway Patrol in conducting roadside inspections.

28 (2) The state board may also specify visual or
29 functional inspection procedures to determine the
30 presence of tampering or defective emissions control
31 systems in heavy-duty diesel or heavy-duty gasoline
32 motor vehicles. However, visual or functional inspection
33 procedures for heavy-duty gasoline motor vehicles shall
34 not be more stringent than those prescribed by the
35 department for heavy-duty gasoline motor vehicles
36 subject to biennial inspection pursuant to Section 44013.

37 (3) The chairperson of the state board shall appoint an
38 ad hoc advisory committee which shall include, but not



1 be limited to, representatives of heavy-duty engine
2 manufacturers, carriers of property for compensation
3 using heavy-duty gasoline or diesel motor vehicles, and
4 the Department of the California Highway Patrol. The
5 advisory committee shall cooperate with the state board
6 to develop a test procedure pursuant to this subdivision
7 and shall advise the state board in developing regulations
8 to implement test procedures and inspection of
9 heavy-duty commercial motor vehicles.

10 (b) Any smoke testing procedures or smoke
11 measuring equipment, including any meter that
12 measures smoke ~~opacity or density~~ and any recorder that
13 stores or records smoke ~~opacity or density~~ measurements,
14 used to test for compliance with this section ~~and~~
15 ~~regulations adopted pursuant to this section~~, shall
16 produce consistent and repeatable results. ~~The~~
17 ~~requirements of this~~ *This* subdivision shall be satisfied by
18 the adoption of Society of Automotive Engineers
19 recommended practice J 1667, “Snap-Acceleration
20 Smoke Test Procedures for Heavy-Duty Diesel Powered
21 Vehicles.”

22 (c) (1) The smoke test standards and procedures
23 adopted and implemented pursuant to this section shall
24 be designed to ensure that no engine will fail ~~the a test~~
25 ~~using those~~ smoke test standards and procedures ~~adopted~~
26 ~~under this section~~ when the engine is in good operating
27 condition and is adjusted to the manufacturer’s
28 specifications.

29 (2) In implementing this section, the state board shall
30 immediately adopt procedures that either ensure that
31 there will be no false failures or that ensure that the state
32 board will remedy any false failures without any penalty
33 to the vehicle owner.

34 (d) ~~The state board shall, by regulation, prohibit the~~
35 ~~use of any heavy-duty motor vehicles~~ *vehicle* which ~~are~~
36 ~~is~~ determined to have excessive smoke emissions or other
37 emissions-related defects, ~~is prohibited.~~ *Excessive smoke*
38 *emissions for purposes of this subdivision shall be*
39 *determined by* using the test procedure established
40 pursuant to this section.



1 (e) (1) The state board may issue a citation to the
2 owner or operator for any vehicle in violation of ~~the~~
3 ~~regulations adopted under this section. The regulations~~

4 (2) *The state board* may require the operator of a
5 vehicle to submit to a test procedure adopted pursuant to
6 subdivision (a); *and* may specify that refusal to so submit
7 is a violation of the regulations, ~~and~~.

8 (3) *The state board* shall require that, when a citation
9 has been issued, the owner of a vehicle in violation of ~~the~~
10 ~~regulations this section~~ shall, within 45 days, correct every
11 deficiency specified in the citation.

12 (f) The department may develop criteria for one or
13 more classes of smog check stations capable of
14 determining compliance with ~~regulations—adopted~~
15 ~~pursuant to~~ this section and may authorize those stations
16 to issue certificates of compliance to ~~vehicles in~~
17 ~~compliance with the regulations~~. The department may
18 contract for the operation of smog check stations for
19 heavy-duty vehicles pursuant to this subdivision, and only
20 heavy-duty vehicles may be inspected at those stations.

21 (g) ~~In addition to the corrective action required by~~
22 ~~this section, the~~ (1) *The* owner of a motor vehicle in
23 violation of the ~~regulations adopted pursuant to~~ this
24 section is subject to a civil penalty of not more than one
25 thousand five hundred dollars (\$1,500) ~~per day for each~~
26 ~~day that failure to repair the vehicle is in violation within~~
27 ~~the time prescribed in paragraph (3) of subdivision (e).~~
28 ~~The state board may adopt a schedule of reduced civil~~
29 ~~penalties to be applied in cases where violations are~~
30 ~~corrected in an expeditious manner. The schedule of~~
31 ~~reduced civil penalties shall not, however, apply where~~
32 ~~there have been repeated incidents of emissions control~~
33 ~~system tampering. All~~

34 (2) *All* civil penalties imposed pursuant to this
35 subdivision shall be collected by the state board and
36 deposited in the Vehicle Inspection and Repair Fund.
37 Funds in the Vehicle Inspection and Repair Fund shall,
38 when appropriated by the Legislature, be available to the
39 state board and the Department of the California
40 Highway Patrol for the conduct of intermittent roadside



1 inspections of heavy-duty vehicles pursuant to this
2 section.

3 (h) Following the adoption of *test and inspection*
4 *procedures pursuant to subdivision (a) and* regulations
5 pursuant to ~~this section~~ *subdivision (l)*, the state board
6 and the Department of the California Highway Patrol
7 shall commence inspecting heavy-duty motor vehicles.
8 With the concurrence of the Department of the
9 California Highway Patrol, these inspections may be
10 conducted in conjunction with the safety and weight
11 enforcement activities of the Department of the
12 California Highway Patrol or at other locations selected
13 by the state board or the Department of the California
14 Highway Patrol. Inspection locations may include private
15 facilities where fleet vehicles are serviced or maintained.
16 The state board and the Department of the California
17 Highway Patrol may conduct these inspections either
18 cooperatively or independently, and the state board may
19 contract for assistance in the conduct of these inspections.

20 (i) The state board shall inform the Department of the
21 California Highway Patrol whenever a vehicle owner
22 cited pursuant to this section fails to take a required
23 corrective action or to pay a civil penalty levied pursuant
24 to subdivisions (g) and (k) in a timely manner. Following
25 notice and opportunity for an administrative hearing
26 pursuant to subdivision (l), the state board may request
27 the Department of the California Highway Patrol to
28 remove the vehicle from service and order the vehicle
29 stored. Upon notification from the state board of payment
30 of any civil penalties imposed under subdivision (g) and
31 storage and related charges, the vehicle shall be released
32 to the owner or designee. Upon release of the vehicle, the
33 owner or designee shall correct every deficiency
34 specified in any citation to that owner with respect to the
35 vehicle.

36 (j) The state board, in consultation with the
37 Department of the California Highway Patrol, shall,
38 within two years of the adoption of *test and inspection*
39 *procedures and* regulations pursuant to this section,
40 prepare and submit to the Legislature a report on the



1 smoke emissions enforcement program conducted under
2 this section, including, but not limited to, its assessment
3 of the effectiveness of the program, the impact of the
4 program on the operations of the Department of the
5 California Highway Patrol, and its recommendations for
6 changes in, alternatives to, or termination of, the
7 program.

8 (k) In addition to the corrective action required by
9 subdivision (e), and in addition to the civil penalty
10 imposed by subdivision (g), the owner of a motor vehicle
11 cited by the state board pursuant to this section shall pay
12 a civil penalty of three hundred dollars (\$300) per
13 citation; except that this penalty shall not apply to the
14 first citation for any ~~school~~ *bus vehicle*. All civil penalties
15 imposed pursuant to this subdivision shall be collected by
16 the state board and deposited in the Diesel Emission
17 Reduction Fund, which fund is hereby created. Funds in
18 the Diesel Emission Reduction Fund shall, when
19 appropriated by the Legislature, be ~~available to the State~~
20 ~~Energy Resources Conservation and Development~~
21 ~~Commission for research, development, and~~
22 ~~demonstration programs undertaken pursuant to Section~~
23 ~~24617 of the Public Resources Code used by the state~~
24 ~~board to support accelerated retirement of older,~~
25 ~~higher-emitting heavy-duty vehicles.~~

26 (l) The state board shall adopt regulations that afford
27 an owner cited under this section an opportunity for an
28 administrative hearing. Any owner cited under this
29 section may request an administrative hearing within 45
30 days following either personal receipt or certified mail
31 receipt of the citation. *All evidence presented at an*
32 *administrative hearing shall be subject to all objections*
33 *which may be made in a court of law, except the hearsay*
34 *objection.* If the owner fails to request an administrative
35 hearing within 45 days, the citation shall be deemed a
36 final order and not subject to review by any court or
37 agency. If the owner requests an administrative hearing
38 and fails to seek review by administrative mandamus
39 pursuant to Section 1094.5 of the Code of Civil Procedure
40 within 60 days after the mailing of the administrative



1 hearing decision, the decision shall be deemed a final
2 order and not subject to review by any other court or
3 agency. The 45-day period may be extended by the
4 administrative hearing officer for good cause.

5 (m) Following exhaustion of the review procedures
6 provided for in subdivision (l), the state board may apply
7 to the Superior Court of Sacramento County for a
8 judgment in the amount of the civil penalty. The
9 application, which shall include a certified copy of the
10 final order of the administrative hearing officer, shall
11 constitute a sufficient showing to warrant the issuance of
12 the judgment.

13 (n) *Vehicles licensed by other states shall not be*
14 *subject to a standard more stringent than the excessive*
15 *smoke standard of the state licensing the vehicle.*

16 (o) *Notwithstanding any other provision of law,*
17 *heavy-duty vehicle engines of the 1994 and subsequent*
18 *model years shall not be subject to this section.*

19 _____

20 CORRECTIONS

21 **Text — Page 4.**

22 _____

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