

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2683**

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**Introduced by Assembly Member Lieber**

February 20, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, as amended, 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 exempted 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 exempt from the smog check requirements, *and the smog check compliance requirements*, any motor vehicle manufactured prior to the 1976 model-year.

(2) 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 January 1, 2007, this bill would impose a state-mandated local program by expanding the scope of a crime.

(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 44011 of the Health and Safety Code is
- 2 amended to read:
- 3 44011. (a) All motor vehicles powered by internal
- 4 combustion engines that are registered within an area designated
- 5 for program coverage shall be required biennially to obtain a
- 6 certificate of compliance or noncompliance, except for all of the
- 7 following:
- 8 (1) Every motorcycle, and every diesel-powered vehicle, until
- 9 the department, pursuant to Section 44012, implements test
- 10 procedures applicable to motorcycles or to diesel-powered
- 11 vehicles, or both.
- 12 (2) Any motor vehicle that has been issued a certificate of
- 13 compliance or noncompliance or a repair cost waiver upon a
- 14 change of ownership or initial registration in this state during the
- 15 preceding six months.
- 16 (3) Any motor vehicle manufactured prior to the 1976
- 17 model-year.



- 1 (4) (A) Any motor vehicle four or less model-years old.  
2 (B) Beginning January 1, 2004, any motor vehicle up to six  
3 model-years old, unless the state board finds that providing an  
4 exception for these vehicles will prohibit the state from meeting  
5 the requirements of Section 176(c) of the federal Clean Air Act (42  
6 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect  
7 to the state implementation plan required by the federal Clean Air  
8 Act.  
9 (C) Any motor vehicle excepted by this paragraph shall be  
10 subject to testing and to certification requirements as determined  
11 by the department, if any of the following apply:  
12 (i) The department determines through remote sensing  
13 activities or other means that there is a substantial probability that  
14 the vehicle has a tampered emission control system or would fail  
15 for other cause a smog check test as specified in Section 44012.  
16 (ii) The vehicle was previously registered outside this state and  
17 is undergoing initial registration in this state.  
18 (iii) The vehicle is being registered as a specially constructed  
19 vehicle.  
20 (iv) The vehicle has been selected for testing pursuant to  
21 Section 44014.7 or any other provision of this chapter authorizing  
22 out-of-cycle testing.  
23 (5) In addition to the vehicles exempted pursuant to paragraph  
24 (4), any motor vehicle or class of motor vehicles exempted  
25 pursuant to subdivision (b) of Section 44024.5. It is the intent of  
26 the Legislature that the department, pursuant to the authority  
27 granted by this paragraph, exempt at least 15 percent of the lowest  
28 emitting motor vehicles from the biennial smog check inspection.  
29 (6) Any motor vehicle that the department determines would  
30 present prohibitive inspection or repair problems.  
31 (7) Any vehicle registered to the owner of a fleet licensed  
32 pursuant to Section 44020 if the vehicle is garaged exclusively  
33 outside the area included in program coverage, and is not primarily  
34 operated inside the area included in program coverage.  
35 (b) Vehicles designated for program coverage in enhanced  
36 areas shall be required to obtain inspections from appropriate  
37 smog check stations operating in enhanced areas.  
38 SEC. 2. *Section 4000.1 of the Vehicle Code is amended to*  
39 *read:*



1 4000.1. (a) Except as otherwise provided in subdivision (b),  
2 (c), or (d) of this section, or subdivision (b) of Section 43654 of  
3 the Health and Safety Code, the department shall require upon  
4 initial registration, and upon transfer of ownership and  
5 registration, of any motor vehicle subject to Part 5 (commencing  
6 with Section 43000) of Division 26 of the Health and Safety Code,  
7 and upon registration of a motor vehicle previously registered  
8 outside this state which is subject to those provisions of the Health  
9 and Safety Code, a valid certificate of compliance or a certificate  
10 of noncompliance, as appropriate, issued in accordance with  
11 Section 44015 of the Health and Safety Code.

12 (b) With respect to new vehicles certified pursuant to Chapter  
13 2 (commencing with Section 43100) of Part 5 of Division 26 of the  
14 Health and Safety Code, the department shall accept a statement  
15 completed pursuant to subdivision (b) of Section 24007 in lieu of  
16 the certificate of compliance.

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

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

25 (1) The initial application for transfer is submitted within the  
26 90-day validity period of a smog certificate as specified in Section  
27 44015 of the Health and Safety Code.

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

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

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

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

38 (6) ~~Prior to January 1, 2003, the~~ *The* motor vehicle was  
39 manufactured prior to the ~~1974~~ 1976 model-year.



1 ~~(7) Beginning January 1, 2003, the motor vehicle is 30 or more~~  
2 ~~model years old.~~

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

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

10 *SEC. 3.* No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

