

AMENDED IN ASSEMBLY MAY 20, 2004
AMENDED IN ASSEMBLY MARCH 24, 2004
CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2683

Introduced by Assembly Member Lieber
(Coauthor: Senator Machado)

February 20, 2004

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, *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.

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

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

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



1 44011. (a) All motor vehicles powered by internal
2 combustion engines that are registered within an area designated
3 for program coverage shall be required biennially to obtain a
4 certificate of compliance or noncompliance, except for all of the
5 following:

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

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

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

16 (4) (A) Any motor vehicle four or less model-years old.

17 (B) Beginning January 1, 2004, any motor vehicle up to six
18 model-years old, unless the state board finds that providing an
19 exception for these vehicles will prohibit the state from meeting
20 the requirements of Section 176(c) of the federal Clean Air Act (42
21 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect
22 to the state implementation plan required by the federal Clean Air
23 Act.

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

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

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

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

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

38 (5) In addition to the vehicles exempted pursuant to paragraph
39 (4), any motor vehicle or class of motor vehicles exempted
40 pursuant to subdivision (b) of Section 44024.5. It is the intent of



1 the Legislature that the department, pursuant to the authority
2 granted by this paragraph, exempt at least 15 percent of the lowest
3 emitting motor vehicles from the biennial smog check inspection.

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

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

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

13 ~~SEC. 2.—~~

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

16 4000.1. (a) Except as otherwise provided in subdivision (b),
17 (c), or (d) of this section, or subdivision (b) of Section 43654 of
18 the Health and Safety Code, the department shall require upon
19 initial registration, and upon transfer of ownership and
20 registration, of any motor vehicle subject to Part 5 (commencing
21 with Section 43000) of Division 26 of the Health and Safety Code,
22 and upon registration of a motor vehicle previously registered
23 outside this state which is subject to those provisions of the Health
24 and Safety Code, a valid certificate of compliance or a certificate
25 of noncompliance, as appropriate, issued in accordance with
26 Section 44015 of the Health and Safety Code.

27 (b) With respect to new vehicles certified pursuant to Chapter
28 2 (commencing with Section 43100) of Part 5 of Division 26 of the
29 Health and Safety Code, the department shall accept a statement
30 completed pursuant to subdivision (b) of Section 24007 in lieu of
31 the certificate of compliance.

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

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



1 (1) The initial application for transfer is submitted within the
2 90-day validity period of a smog certificate as specified in Section
3 44015 of the Health and Safety Code.

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

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

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

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

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

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

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

23 ~~SEC. 3.—~~

24 *SEC. 4.* No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 *SEC. 5.* This act shall become operative on April 1, 2005.

