

AMENDED IN SENATE AUGUST 23, 2004

AMENDED IN ASSEMBLY MAY 20, 2004

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**  
*(Coauthor: Assembly Member Koretz)*  
(Coauthor: Senator Machado)

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~~ *Sections 4000.1 and 4000.2* 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~~ *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. *The bill would also provide that defined collector motor vehicles for which proof of insurance is submitted on that basis in accordance with regulations of the Bureau of Automotive Repair, and that are at least 35 model years old, shall be subject to otherwise applicable exhaust emissions standards, but shall not be required to pass a visual and functional inspection of emission equipment, other than a functional inspection of the fuel cap and a visual inspection for liquid fuel leaks.*

(2) *Under existing law, the Department of Motor Vehicles, with certain exceptions, is required to obtain submission of a valid smog check certificate of compliance or noncompliance, as appropriate, in order to register a motor vehicle previously registered outside the state. Among other exemptions, from this requirement, existing law exempts 1965 or earlier model-year motor vehicles.*

*This bill, commencing April 1, 2005, would instead apply the model-year exemption that is applicable to vehicles registered in this state. The bill would also make technical clarifying changes.*

(3) 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~~ *April 1, 2005*, this bill would impose a state-mandated local program by expanding the scope of a crime.

~~(3)~~

(4) 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:

13 44011. (a) All motor vehicles powered by internal  
14 combustion engines that are registered within an area designated  
15 for program coverage shall be required biennially to obtain a  
16 certificate of compliance or noncompliance, except for all of the  
17 following:

18 (1) Every motorcycle, and every diesel-powered vehicle, until  
19 the department, pursuant to Section 44012, implements test  
20 procedures applicable to motorcycles or to diesel-powered  
21 vehicles, or both.

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

26 (3) Any motor vehicle manufactured prior to the 1976  
27 model-year.

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

29 (B) Beginning January 1, 2004, any motor vehicle up to six  
30 model-years old, unless the state board finds that providing an  
31 exception for these vehicles will prohibit the state from meeting  
32 the requirements of Section 176(c) of the federal Clean Air Act (42  
33 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect



1 to the state implementation plan required by the federal Clean Air  
 2 Act.

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

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

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

12 (iii) The vehicle is being registered as a specially constructed  
 13 vehicle.

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

17 (5) In addition to the vehicles exempted pursuant to paragraph  
 18 (4), any motor vehicle or class of motor vehicles exempted  
 19 pursuant to subdivision (b) of Section 44024.5. It is the intent of  
 20 the Legislature that the department, pursuant to the authority  
 21 granted by this paragraph, exempt at least 15 percent of the lowest  
 22 emitting motor vehicles from the biennial smog check inspection.

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

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

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

32 ~~SEC. 3. Section 4000.1 of the Vehicle Code is amended to~~  
 33 ~~read:~~

34 ~~4000.1. (a) Except as otherwise provided in subdivision (b);~~  
 35 ~~(c), or (d) of this section, or subdivision (b) of Section 43654 of~~  
 36 ~~the Health and Safety Code, the department shall require upon~~  
 37 ~~initial registration, and upon transfer of ownership and~~  
 38 ~~registration, of any motor vehicle subject to Part 5 (commencing~~  
 39 ~~with Section 43000) of Division 26 of the Health and Safety Code;~~  
 40 ~~and upon registration of a motor vehicle previously registered~~



1 ~~outside this state which is subject to those provisions of the Health~~  
2 ~~and Safety Code, a valid certificate of compliance or a certificate~~  
3 ~~of noncompliance, as appropriate, issued in accordance with~~  
4 ~~Section 44015 of the Health and Safety Code.~~

5 ~~(b) With respect to new vehicles certified pursuant to Chapter~~  
6 ~~2 (commencing with Section 43100) of Part 5 of Division 26 of the~~  
7 ~~Health and Safety Code, the department shall accept a statement~~  
8 ~~completed pursuant to subdivision (b) of Section 24007 in lieu of~~  
9 ~~the certificate of compliance.~~

10 ~~(c) For purposes of determining the validity of a certificate of~~  
11 ~~compliance or noncompliance submitted in compliance with the~~  
12 ~~requirements of this section, the definitions of new and used motor~~  
13 ~~vehicle contained in Chapter 2 (commencing with Section 39010)~~  
14 ~~of Part 1 of Division 26 of the Health and Safety Code shall~~  
15 ~~control.~~

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

18 ~~(1) The initial application for transfer is submitted within the~~  
19 ~~90-day validity period of a smog certificate as specified in Section~~  
20 ~~44015 of the Health and Safety Code.~~

21 ~~(2) The transferor is either the parent, grandparent, sibling,~~  
22 ~~child, grandchild, or spouse of the transferee.~~

23 ~~(3) A vehicle registered to a sole proprietorship is transferred~~  
24 ~~to the proprietor as owner.~~

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

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

31 ~~(6) The motor vehicle was manufactured prior to the 1976~~  
32 ~~model year.~~

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

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

40 ~~SEC. 4.—~~



1 (c) For purposes of subdivision (a), any collector motor  
2 vehicle, as defined in Section 259 of the Vehicle Code, is exempt  
3 from those portions of the test required by subdivision (f) of Section  
4 44012 if the collector motor vehicle meets all of the following  
5 criteria:

6 (1) Submission of proof that the motor vehicle is insured as a  
7 collector motor vehicle, as shall be required by regulation of the  
8 bureau.

9 (2) The motor vehicle is at least 35 model years old.

10 (3) The motor vehicle complies with the exhaust emissions  
11 standards for that motor vehicle's class and model year as  
12 prescribed by the department, and the motor vehicle passes a  
13 functional inspection of the fuel cap and a visual inspection for  
14 liquid fuel leaks.

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

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

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

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

39 (d) Subdivision (a) does not apply to a transfer of ownership  
40 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 *motor* vehicle registered to a sole proprietorship is  
7 transferred to the proprietor as owner.

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

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

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

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

20 (8) ~~Beginning January 1, 2005, the transfer is for a *motor*~~  
21 ~~vehicle that is four or less model-years~~ *model years* old. The  
22 department shall impose a fee of eight dollars (\$8) on the  
23 transferee of a *motor* vehicle that is four or less model-years old.  
24 Revenues generated from the imposition of that fee shall be  
25 deposited into the Vehicle Inspection and Repair Fund.

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

31 (f) Subdivision (a) does not apply to a motor vehicle when an  
32 additional individual is added as a registered owner of the *motor*  
33 vehicle.

34 (g) *For purposes of subdivision (a), any collector motor*  
35 *vehicle, as defined in Section 259, is exempt from those portions*  
36 *of the test required by subdivision (f) of Section 44012 of the Health*  
37 *and Safety Code, if the collector motor vehicle meets all of the*  
38 *following criteria:*



1 (1) Submission of proof that the motor vehicle is insured as a  
2 collector motor vehicle, as shall be required by regulation of the  
3 bureau.

4 (2) The motor vehicle is at least 35 model years old.

5 (3) The motor vehicle complies with the exhaust emissions  
6 standards for that motor vehicle's class and model year as  
7 prescribed by the department, and the motor vehicle passes a  
8 functional inspection of the fuel cap and a visual inspection for  
9 liquid fuel leaks.

10 SEC. 4. Section 4000.2 of the Vehicle Code is amended to  
11 read:

12 4000.2. (a) Except as otherwise provided in subdivision (b)  
13 of Section 43654 of the Health and Safety Code, and, commencing  
14 on ~~January 1, 1993~~ April 1, 2005, except for ~~1965 or earlier~~  
15 ~~model-year motor vehicles~~ model years exempted from biennial  
16 inspection pursuant to Section 44011 of the Health and Safety  
17 Code, the department shall require upon registration of a motor  
18 vehicle subject to Part 5 (commencing with Section 43000) of  
19 Division 26 of the Health and Safety Code, previously registered  
20 outside this state, a valid certificate of compliance or a certificate  
21 of noncompliance, as appropriate, issued in accordance with  
22 Section 44015 of the Health and Safety Code.

23 (b) For the purposes of determining the validity of a certificate  
24 of compliance or noncompliance submitted in compliance with the  
25 requirements of this section, the definitions of new and used motor  
26 vehicle contained in Chapter 2 (commencing with Section 39010)  
27 of Part 1 of Division 26 of the Health and Safety Code shall  
28 control.

29 SEC. 5. The amendments to Sections 43843 and 44004 of the  
30 Health and Safety Code proposed by Senate Bill 1615, if enacted,  
31 shall not be operative.

32 SEC. 6. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within  
39 the meaning of Section 6 of Article XIII B of the California  
40 Constitution.



1 ~~SEC. 5.~~

2 *SEC. 7.* This act shall become operative on April 1, 2005.

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