

AMENDED IN SENATE AUGUST 26, 2004

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 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 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.

*Existing law exempts from existing smog-check requirements, any motor vehicle 4 or less model-years old and also exempts any motor vehicle up to 6 model-years old, unless the state board determines that the exemption would prohibit the state from meeting specified requirements of the federal Clean Air Act.*

*This bill would, commencing January 1, 2005, make the exemption for any motor vehicle 4 or less model-years old inapplicable if the state board makes those same determinations regarding the requirements of the federal act.*

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

(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



1 change of ownership or initial registration in this state during the  
2 preceding six months.

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

5 (4) (A) ~~Any~~ *Except as provided in subparagraph (B), any*  
6 motor vehicle four or less model-years old.

7 (B) Beginning January 1, ~~2004~~ 2005, any motor vehicle ~~up to~~  
8 ~~six~~ *six or less* model-years old, unless the state board finds that  
9 providing an exception for these vehicles will prohibit the state  
10 from meeting the requirements of Section 176(c) of the federal  
11 Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's  
12 commitments with respect to the state implementation plan  
13 required by the federal Clean Air Act.

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

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

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

23 (iii) The vehicle is being registered as a specially constructed  
24 vehicle.

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

28 (5) In addition to the vehicles exempted pursuant to paragraph  
29 (4), any motor vehicle or class of motor vehicles exempted  
30 pursuant to subdivision (b) of Section 44024.5. It is the intent of  
31 the Legislature that the department, pursuant to the authority  
32 granted by this paragraph, exempt at least 15 percent of the lowest  
33 emitting motor vehicles from the biennial smog check inspection.

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

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



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

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

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

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

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

18 SEC. 3. Section 4000.1 of the Vehicle Code is amended to  
19 read:

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

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

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



- 1 (d) Subdivision (a) does not apply to a transfer of ownership  
2 and registration under any of the following circumstances:
- 3 (1) The initial application for transfer is submitted within the  
4 90-day validity period of a smog certificate as specified in Section  
5 44015 of the Health and Safety Code.
- 6 (2) The transferor is the parent, grandparent, sibling, child,  
7 grandchild, or spouse of the transferee.
- 8 (3) A motor vehicle registered to a sole proprietorship is  
9 transferred to the proprietor as owner.
- 10 (4) The transfer is between companies whose principal  
11 business is leasing motor vehicles, if there is no change in the  
12 lessee or operator of the motor vehicle or between the lessor and  
13 the person who has been, for at least one year, the lessee's operator  
14 of the motor vehicle.
- 15 (5) The transfer is between the lessor and lessee of the motor  
16 vehicle, if there is no change in the lessee or operator of the motor  
17 vehicle.
- 18 (6) The motor vehicle was manufactured prior to the 1976  
19 model-year.
- 20 (7) Beginning January 1, 2005, the transfer is for a motor  
21 vehicle that is four or less model years old. The department shall  
22 impose a fee of eight dollars (\$8) on the transferee of a motor  
23 vehicle that is four or less model-years old. Revenues generated  
24 from the imposition of that fee shall be deposited into the Vehicle  
25 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  
37 Health and Safety Code, if the collector motor vehicle meets all of  
38 the 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 April 1, 2005, except for model years exempted from biennial  
15 inspection pursuant to Section 44011 of the Health and Safety  
16 Code, the department shall require upon registration of a motor  
17 vehicle subject to Part 5 (commencing with Section 43000) of  
18 Division 26 of the Health and Safety Code, previously registered  
19 outside this state, a valid certificate of compliance or a certificate  
20 of noncompliance, as appropriate, issued in accordance with  
21 Section 44015 of the Health and Safety Code.

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

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

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



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

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