Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 76

HOUSE BILL 2357

AN ACT

AMENDING SECTION 49-542, ARIZONA REVISED STATUTES; RELATING TO ANNUAL EMISSIONS INSPECTIONS OF MOTOR VEHICLES; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

STATE OF SENATE

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 49-542, Arizona Revised Statutes, is amended to
3 read:
4 49-542. Emissions inspection program; powers and duties of
5 director; administration; periodic inspection;
6 minimum standards and rules; exceptions; definition
7 A. The director shall administer a comprehensive annual or biennial
8 emissions inspection program which shall require the inspection of vehicles
9 in this state pursuant to this article and applicable administrative rules.
10 Such inspection is required in area A and area B, for those vehicles owned by
11 a person who is subject to section 15-1444 or 15-1627 and for those vehicles
12 registered outside of area A or area B but used to commute to the driver's
13 principal place of employment located within area A or area B. Inspection in
14 other counties of the state shall commence upon application by a county board
15 of supervisors for participation in such inspection program, subject to
16 approval by the director. In all counties with a population of three hundred
17 fifty thousand or fewer persons according to the most recent United States
18 decennial census, except for the portion of counties that contain any portion
19 of area A, the director shall as conditions dictate provide for testing to
20 determine the effect of vehicle related pollution on ambient air quality in
21 all communities with a metropolitan area population of twenty thousand
22 persons or more according to the most recent United States decennial
23 census. If such testing detects the violation of state ambient air quality
24 standards by vehicle related pollution, the director shall forward a full
25 report of such violation to the president of the senate, the speaker of the
26 house of representatives and the governor.
27 B. The state's annual or biennial emissions inspection program shall
28 provide for vehicle inspections at official emissions inspection stations or
29 at fleet emissions inspection stations. Each inspection station in area A
30 shall employ at least one mechanic who is available during the station's
31 hours of operation to provide technical advice and assistance for persons who
32 fail the emissions test. The director may enter into agreements with the
33 department of transportation or with county assessors for the use of official
34 emissions inspection stations for the purpose of conducting vehicle
35 registrations. An official or fleet emissions inspection station permit
36 shall not be sold, assigned, transferred, conveyed or removed to another
37 location except on such terms and conditions as the director may prescribe.
38 C. Vehicles required to be inspected and registered in this state,
39 except those provided for in section 49-546, shall be inspected, for the
40 purpose of complying with the registration or reregistration requirement
41 pursuant to subsection D of this section, in accordance with the provisions
42 of this article no more than ninety days prior to each reregistration
43 expiration date. A vehicle may be submitted voluntarily for inspection more
44 than ninety days before the reregistration expiration date on payment of the
45 prescribed inspection fee. Such voluntary inspection shall not be considered

as compliance with the registration or reregistration requirement pursuant to subsection D of this section.

D. A vehicle shall not be registered or reregistered until such vehicle has passed the emissions inspection and the tampering inspection prescribed in subsection G of this section or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered or reregistered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28, the cost of any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article or the vehicle is exempt under subsection J of this section.

E. On the registration or reregistration of a vehicle which has complied with the minimum emissions standards pursuant to this section or is otherwise exempt under this section, the registering officer shall issue an air quality compliance sticker to the registered owner which shall be placed on the vehicle as prescribed by rule adopted by the department of transportation or issue a modified year validating tab as prescribed by rule adopted by the department of transportation. Those persons who reside outside of area A or area B but who elect to test their vehicle or are required to test their vehicle pursuant to this section and who comply with the minimum emissions standards pursuant to this section or are otherwise exempt under this section shall remit a compliance form, as prescribed by the department of transportation, and proof of compliance issued at an official emissions inspection station to the department of transportation along with the appropriate fees. The department of transportation shall then issue the person an air quality compliance sticker which shall be placed on the vehicle as prescribed by rule adopted by the department of transportation. The registering officer or the department of transportation shall collect an air quality compliance fee of twenty-five cents. The registering officer or the department of transportation shall deposit, pursuant to sections 35-146 and 35-147, the air quality compliance fee in the state highway fund established by section 28-6991. The department of transportation shall deposit, pursuant to sections 35-146 and 35-147, any emissions inspection fee in the emissions inspection fund. The provisions of this subsection do not apply to those vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale of vehicles between motor vehicle dealers or vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.

F. The director shall adopt minimum emissions standards pursuant to section 49-447 with which the various classes of vehicles shall be required to comply as follows:

1. For the purpose of determining compliance with minimum emissions standards in area B:

(a) A motor vehicle manufactured in or before the 1980 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test condition. A diesel powered vehicle is subject to only a loaded test condition. The conditioning mode shall, at the option of the vehicle owner or owner's agent, be administered only after the vehicle has failed the curb idle test condition. Upon completion of such conditioning mode, a vehicle that has failed the curb idle test condition may be retested in the curb idle test condition. If the vehicle passes such retest, it shall be deemed in compliance with minimum emissions standards unless the vehicle fails the tampering inspection pursuant to subsection G of this section.

(b) A motor vehicle manufactured in or after the 1981 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test condition and the loaded test condition or an ~~on-board~~ ONBOARD diagnostic check as may be required pursuant to title II of the clean air act.

2. For purposes of determining compliance with minimum emissions standards and functional tests in area A:

(a) Motor vehicles manufactured in or after model year 1981 with a gross vehicle weight rating of eighty-five hundred pounds or less, other than diesel powered vehicles, shall be required to take and pass a transient loaded emissions test or an ~~on-board~~ ONBOARD diagnostic check as may be required pursuant to title II of the clean air act.

(b) Motor vehicles other than those prescribed by subdivision (a) of this paragraph and other than diesel powered vehicles shall be required to take and pass a steady state loaded test and a curb idle emissions test.

(c) Notwithstanding the requirement of subsection C of this section that the first emissions inspection after the purchase of a new vehicle be for the second registration year for that vehicle, a diesel powered motor vehicle applying for registration or reregistration in area A more than thirty-three months after the date of initial registration shall be required to take and pass an annual emissions test conducted at an official emissions inspection station or a fleet emissions inspection station as follows:

(i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.

(ii) A test that conforms with the society for automotive engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds.

(d) Motor vehicles by specific class or model year shall be required to take and pass any of the following tests:

(i) An evaporative system purge test.

(ii) An evaporative system integrity test.

(e) An ~~on board~~ ONBOARD diagnostic check as may be required pursuant to title II of the clean air act may be conducted for advisory purposes.

3. A motorcycle IN AREA A or ANY constant four wheel drive vehicle shall be required to take and pass a curb idle emissions test.

4. Fleet operators in area B which have been issued a permit under section 49-546 are required to test their vehicles as follows:

(a) A motor vehicle manufactured in or before the 1980 model year shall take and pass only the curb idle test condition, except that a diesel powered vehicle is subject to only a loaded test condition.

(b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test condition and a twenty-five hundred revolutions per minute unloaded test condition.

5. Vehicles owned or operated by the United States, this state or a political subdivision of this state shall comply with this subsection without regard to whether those vehicles are required to be registered in this state, except that alternative fuel vehicles of a school district that is located in area A shall be required to take and pass the curb idle test condition and the loaded test condition.

6. Fleet operators in area A shall comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to section 49-546 for purposes of determining compliance with minimum emission standards in area A shall test their vehicles as follows:

(a) A motor vehicle manufactured in or before the 1980 model year shall take and pass the curb idle test condition, except that a diesel powered vehicle is subject to only a loaded test condition.

(b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test condition and a two thousand five hundred revolutions per minute unloaded test condition.

7. Beginning on January 1, 2004 and except for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

8. Beginning on January 1, 2006 for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of

Federal Regulations section 86.088-11. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

G. In addition to an emissions inspection, a vehicle is subject to a tampering inspection on at least a biennial basis if the vehicle was manufactured after the 1974 model year and the vehicle is not subject to a transient loaded emissions test. The director shall adopt vehicle configuration guidelines for the tampering inspection which shall be based on the original configuration of the vehicle when manufactured. The tampering inspection shall consist of the following:

1. A visual check to determine the presence of properly installed catalytic converters.

2. An examination to determine the presence of an operational air pump.

3. In area A, if the vehicle was manufactured after the 1974 model year and is not subject to a transient loaded emissions test, a visual inspection for the presence or malfunction of the positive crankcase ventilation system and the evaporative control system.

H. Vehicles required to be inspected shall undergo a functional test of the gas cap to determine if the cap holds pressure within limits prescribed by the director, except for any vehicle that is subject to an evaporative system integrity test.

I. Motor vehicles failing the initial or subsequent test are not subject to a penalty fee for late registration renewal if the original testing was accomplished before the expiration date and if the registration renewal is received by the motor vehicle division or the county assessor within thirty days of the original test.

J. The director may adopt rules for purposes of implementation, administration, regulation and enforcement of the provisions of this article including:

1. The submission of records relating to the emissions inspection of vehicles inspected by another jurisdiction in accordance with another inspection law and the acceptance of such inspection for compliance with the provisions of this article.

2. The exemption from inspection of:

(a) A motor vehicle manufactured in or before the 1966 model year.

(b) New vehicles originally registered at the time of initial retail sale and titling in this state pursuant to section 28-2153 or 28-2154.

(c) Vehicles registered pursuant to title 28, chapter 7, article 7 or 8.

(d) During each calendar year vehicles of that model year and vehicles from the prior four model years.

(e) Vehicles which will not be available within the state during the ninety days prior to registration.

(f) Golf carts.

(g) Electrically-powered vehicles.

(h) Vehicles with an engine displacement of less than ninety cubic centimeters.

(i) The sale of vehicles between motor vehicle dealers.

(j) Vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.

(k) COLLECTIBLE VEHICLES.

(l) MOTORCYCLES IN AREA B.

3. Compiling and maintaining records of emissions test results after servicing.

4. A procedure which shall allow the vehicle service and repair industry to compare the calibration accuracy of its emissions testing equipment with the department's calibration standards.

5. Training requirements for automotive repair personnel using emissions measuring equipment whose calibration accuracy has been compared with the department's calibration standards.

6. Any other rule which may be required to accomplish the provisions of this article.

K. The director shall, after consultation with automobile manufacturers and the vehicle service and repair industry, establish by rule a definition of "low emissions tune-up" for motor vehicles subject to inspection under this article. The definition shall specify repair procedures which, when implemented, will reduce vehicle emissions.

L. The director shall adopt rules which specify that the estimated retail cost of all recommended maintenance and repairs shall not exceed the amounts prescribed in this subsection, except that if a vehicle fails a tampering inspection there is no limit on the cost of recommended maintenance and repairs. The director shall issue a certificate of waiver for a vehicle which has failed reinspection, if the director has determined that all recommended maintenance and repairs have been performed. If, after reinspection, the director has determined that the vehicle is in compliance with minimum emissions standards or that all recommended maintenance and repairs for compliance with minimum emissions standards have been performed, but that tampering discovered at a tampering inspection has not been repaired, the director may issue a certificate of waiver if the owner of the vehicle provides to the director a written statement from an automobile parts or repair business that an emissions control device which is necessary to repair the tampering is not available and cannot be obtained from any usual source of supply before the vehicle's current registration expires. Rules adopted by the director for the purpose of establishing the estimated retail cost of all recommended maintenance and repairs pursuant to this subsection shall specify that:

1. In area A the cost shall not exceed:

(a) Five hundred dollars for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.

1 (b) Five hundred dollars for a diesel powered vehicle with tandem
2 axles.
3 (c) For a vehicle other than a diesel powered vehicle with a gross
4 weight in excess of twenty-six thousand pounds and other than a diesel
5 powered vehicle with tandem axles:
6 (i) Two hundred dollars for such a vehicle manufactured in or before
7 the 1974 model year.
8 (ii) Three hundred dollars for such a vehicle manufactured in the 1975
9 through 1979 model years.
10 (iii) Four hundred fifty dollars for such a vehicle manufactured in or
11 after the 1980 model year.
12 2. In area B the cost shall not exceed:
13 (a) Three hundred dollars for a diesel powered vehicle with a gross
14 weight in excess of twenty-six thousand pounds.
15 (b) Three hundred dollars for a diesel powered vehicle with tandem
16 axles.
17 3. For a vehicle other than a diesel powered vehicle with a gross
18 weight in excess of twenty-six thousand pounds and other than a diesel
19 powered vehicle with tandem axles:
20 (a) Fifty dollars for such a vehicle manufactured in or before the
21 1974 model year.
22 (b) Two hundred dollars for such a vehicle manufactured in the 1975
23 through 1979 model years.
24 (c) Three hundred dollars for such a vehicle manufactured in or after
25 the 1980 model year.
26 M. Each person whose vehicle has failed an emissions inspection shall
27 be provided a list of those general recommended tune-up procedures for
28 vehicles which are designed to reduce vehicle emissions levels. The list
29 shall include the following notice: "This test is the result of federal law.
30 You may wish to contact your representative in the United States Congress."
31 N. Notwithstanding any other provisions of this article, the director
32 may adopt rules allowing exemptions from the requirement that all vehicles
33 must meet the minimum standards for registration or reregistration.
34 O. The director of environmental quality shall establish, in
35 cooperation with the assistant director for the motor vehicle division of the
36 department of transportation:
37 1. An adequate method for identifying bona fide residents residing
38 outside of area A or area B to ensure that such residents are exempt from
39 compliance with the inspection program established by this article and rules
40 adopted under this article.
41 2. A written notice that shall accompany the vehicle registration
42 application forms that are sent to vehicle owners pursuant to section 28-2151
43 and that shall accompany or be included as part of the vehicle emissions test
44 results that are provided to vehicle owners at the time of the vehicle
45 emissions test. This written notice shall describe at least the following:

1 (a) The restriction of the waiver program to one time per vehicle and
2 a brief description of the implications of this limit.
3 (b) The availability and a brief description of the vehicle repair and
4 retrofit program established pursuant to section 49-474.03.
5 (c) Notice that many vehicles carry extended warranties for vehicle
6 emissions systems, and those warranties are described in the vehicle's
7 owner's manual or other literature.
8 (d) A description of the catalytic converter replacement program
9 established pursuant to section 49-474.03.
10 P. Notwithstanding any other law, if area A or area B is reclassified
11 as an attainment area, emissions testing conducted pursuant to this article
12 shall continue for vehicles registered inside that reclassified area,
13 vehicles owned by a person who is subject to section 15-1444 or 15-1627 and
14 vehicles registered outside of that reclassified area but used to commute to
15 the driver's principal place of employment located within that reclassified
16 area.
17 Q. A fleet operator who is issued a permit pursuant to section 49-546
18 may electronically transmit emissions inspection data to the department of
19 transportation pursuant to rules adopted by the director of the department of
20 transportation in consultation with the director of environmental quality.
21 R. The director shall prohibit a certificate of waiver pursuant to
22 subsection L of this section for any vehicle which has failed inspection in
23 area A due to the catalytic converter system.
24 S. The director shall establish provisions for rapid testing of
25 certain vehicles and to allow fleet operators, singly or in combination, to
26 contract directly for vehicle emissions testing.
27 T. Each vehicle emissions control station in area A shall have a sign
28 posted to be visible to persons who are having their vehicles tested. This
29 sign shall state that enhanced testing procedures are a direct result of
30 federal law.
31 U. The initial adoption of rules pursuant to this section shall be
32 deemed emergency rules pursuant to section 41-1026.
33 V. The director of environmental quality and the director of the
34 department of transportation shall implement a system to exchange information
35 relating to the waiver program, including information relating to vehicle
36 emissions test results and vehicle registration information.
37 W. Any person who sells a vehicle that has been issued a certificate
38 of waiver pursuant to this section after January 1, 1997 and who knows that a
39 certificate of waiver has been issued after January 1, 1997 for that vehicle
40 shall disclose to the buyer before completion of the sale that a certificate
41 of waiver has been issued for that vehicle.
42 X. Vehicles that fail the emissions test at emission levels higher
43 than twice the standard established for that vehicle class by the department
44 pursuant to section 49-447 are not eligible for a certificate of waiver
45 pursuant to this section unless the vehicle is repaired sufficiently to

achieve an emissions level below twice the standard for that class of vehicle.

Y. IF AN INSURER NOTIFIES THE DEPARTMENT OF TRANSPORTATION OF THE CANCELLATION OR NONRENEWAL OF COLLECTIBLE VEHICLE OR CLASSIC AUTOMOBILE INSURANCE COVERAGE FOR A COLLECTIBLE VEHICLE, THE DEPARTMENT OF TRANSPORTATION SHALL CANCEL THE REGISTRATION OF THE VEHICLE AND THE VEHICLE'S EXEMPTION FROM EMISSIONS TESTING PURSUANT TO THIS SECTION UNLESS EVIDENCE OF COVERAGE IS PRESENTED TO THE DEPARTMENT OF TRANSPORTATION WITHIN SIXTY DAYS.

Z. FOR THE PURPOSES OF THIS SECTION, "COLLECTIBLE VEHICLE" MEANS A VEHICLE THAT COMPLIES WITH BOTH OF THE FOLLOWING:

1. EITHER:

(a) BEARS A MODEL YEAR DATE OF ORIGINAL MANUFACTURE THAT IS AT LEAST FIFTEEN YEARS OLD.

(b) IS OF UNIQUE OR RARE DESIGN, OF LIMITED PRODUCTION AND AN OBJECT OF CURIOSITY.

2. MEETS BOTH OF THE FOLLOWING CRITERIA:

(a) IS MAINTAINED PRIMARILY FOR USE IN CAR CLUB ACTIVITIES, EXHIBITIONS, PARADES OR OTHER FUNCTIONS OF PUBLIC INTEREST OR FOR A PRIVATE COLLECTION AND IS USED ONLY INFREQUENTLY FOR OTHER PURPOSES.

(b) HAS A COLLECTIBLE VEHICLE OR CLASSIC AUTOMOBILE INSURANCE COVERAGE THAT RESTRICTS THE COLLECTIBLE VEHICLE MILEAGE OR USE, OR BOTH, AND REQUIRES THE OWNER TO HAVE ANOTHER VEHICLE FOR PERSONAL USE.

Sec. 2. Conditional enactment; notice

A. Section 49-542, Arizona Revised Statutes, as amended by this act, does not become effective unless on or before July 1, 2009 the United States environmental protection agency issues a vehicle emissions testing exemption for motorcycles and collectible vehicles in area B and for collectible vehicles in area A for purposes of the state implementation or maintenance plan for air quality.

B. The director of the department of environmental quality shall promptly notify in writing the director of the Arizona legislative council of the date on which the condition prescribed in subsection A of this section is met or if the condition is not met.

APPROVED BY THE GOVERNOR APRIL 13, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2005.

Passed the House February 7, 2005,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate April 5, 2005,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

H.B. 2357

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 07, 2005,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of April, 2005,

at 4:23 o'clock P. M.

Jennifer Ybarra

Secretary to the Governor

Approved this 13 day of

April, 2005,

at 9 30 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13 day of April, 2005

at 11:04 o'clock A. M.

Janice K. Brewer

Secretary of State

H.B. 2357