

House Engrossed

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

**CHAPTER 29
HOUSE BILL 2131**

AN ACT

AMENDING SECTION 49-456, ARIZONA REVISED STATUTES; AMENDING SECTION 49-542, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 89, SECTION 3; AMENDING LAWS 2014, CHAPTER 89, SECTION 6; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-456, Arizona Revised Statutes, is amended to
3 read:

4 49-456. Technical assistance for small business; compliance
5 advisory panel

6 A. ~~Not later than November 15, 1992,~~ After reasonable notice and a
7 public hearing, the director shall submit to the administrator a plan
8 establishing a small business stationary source technical and compliance
9 assistance program consistent with and equivalent to the plan required
10 under section 507 of the clean air act.

11 B. A compliance advisory panel is established consisting of seven
12 members who are appointed for staggered five-year terms as follows:

13 1. Two members who are appointed by the governor to represent the
14 general public and who are not owners or representatives of owners of
15 small business stationary sources.

16 2. Two members who are appointed by the speaker of the house of
17 representatives and who are owners or who represent owners of small
18 business stationary sources.

19 3. Two members who are appointed by the president of the senate and
20 who are owners or who represent owners of small business stationary
21 sources.

22 4. One member who is appointed by the director of the department of
23 environmental quality to represent the department.

24 C. The panel shall:

25 1. Advise the director on the effectiveness of the small business
26 stationary source technical and environmental compliance assistance
27 program operated pursuant to this section and any such program operated by
28 a county, including the identification of difficulties encountered and the
29 degree and severity of enforcement.

30 2. Make periodic reports to the director and administrator
31 concerning the compliance of the small business stationary source
32 technical and environmental compliance assistance program operated
33 pursuant to this section and any such program operated by a county with
34 the requirements of the paperwork reduction act (P.L. 96-511; 20 United
35 States Code section 1221), the regulatory flexibility act (P.L. 96-354; 5
36 United States Code section 601) and the equal access to justice act (P.L.
37 96-481; 5 United States Code section 504).

38 3. Review information developed by the department and any county
39 for small business stationary sources to assure that the information is
40 understandable by the general public and advise the director of its
41 findings.

42 4. Have staff from the small business stationary source technical
43 and environmental compliance assistance program to develop and disseminate
44 reports and advisory opinions.

1 ~~D. The panel established by this section ends on July 1, 2017~~
2 ~~pursuant to section 41-3103.~~

3 Sec. 2. Section 49-542, Arizona Revised Statutes, as amended by
4 Laws 2014, chapter 89, section 3, is amended to read:

5 49-542. Emissions inspection program; powers and duties of
6 director; administration; periodic inspection;
7 minimum standards and rules; exceptions; definition

8 A. The director shall administer a comprehensive annual or biennial
9 emissions inspection program that shall require the inspection of vehicles
10 in this state pursuant to this article and applicable administrative
11 rules. Such inspection is required for vehicles that are registered in
12 area A and area B, for those vehicles owned by a person who is subject to
13 section 15-1444 or 15-1627 and for those vehicles registered outside of
14 area A or area B but used to commute to the driver's principal place of
15 employment located within area A or area B. Inspection in other counties
16 of the state shall commence on the director's approval of an application
17 by a county board of supervisors for participation in such inspection
18 program. In all counties with a population of three hundred fifty
19 thousand or fewer persons, except for the portion of counties that contain
20 any portion of area A, the director shall as conditions dictate provide
21 for testing to determine the effect of vehicle related pollution on
22 ambient air quality in all communities with a metropolitan area population
23 of twenty thousand persons or more. If such testing detects the violation
24 of state ambient air quality standards by vehicle related pollution, the
25 director shall forward a full report of such violation to the president of
26 the senate, the speaker of the house of representatives and the governor.

27 B. The state's annual or biennial emissions inspection program
28 shall provide for vehicle inspections at official emissions inspection
29 stations or at fleet emissions inspection stations. Each inspection
30 station in area A shall employ at least one technical assistant who is
31 available during the station's hours of operation to provide assistance
32 for persons who fail the emissions test. An official or fleet emissions
33 inspection station permit shall not be sold, assigned, transferred,
34 conveyed or removed to another location except on such terms and
35 conditions as the director may prescribe.

36 C. Vehicles required to be inspected and registered in this state,
37 except those provided for in section 49-546, shall be inspected, for the
38 purpose of complying with the registration requirement pursuant to
39 subsection D of this section, in accordance with the provisions of this
40 article no more than ninety days prior to each registration expiration
41 date. A vehicle may be submitted voluntarily for inspection more than
42 ninety days before the registration expiration date on payment of the
43 prescribed inspection fee. Such voluntary inspection shall not be
44 considered as compliance with the registration requirement pursuant to
45 subsection D of this section.

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

13 E. On the registration of a vehicle that has complied with the
14 minimum emissions standards pursuant to this section or is otherwise
15 exempt under this section, the registering officer shall issue an air
16 quality compliance sticker to the registered owner that shall be placed on
17 the vehicle as prescribed by rule adopted by the department of
18 transportation or issue a modified year validating tab as prescribed by
19 rule adopted by the department of transportation. Those persons who
20 reside outside of area A or area B but who elect to test their vehicle or
21 are required to test their vehicle pursuant to this section and who comply
22 with the minimum emissions standards pursuant to this section or are
23 otherwise exempt under this section shall remit a compliance form, as
24 prescribed by the department of transportation, and proof of compliance
25 issued at an official emissions inspection station to the department of
26 transportation along with the appropriate fees. The department of
27 transportation shall then issue the person an air quality compliance
28 sticker ~~which~~ THAT shall be placed on the vehicle as prescribed by rule
29 adopted by the department of transportation. The registering officer or
30 the department of transportation shall collect an air quality compliance
31 fee of twenty-five cents. The registering officer or the department of
32 transportation shall deposit, pursuant to sections 35-146 and 35-147, the
33 air quality compliance fee in the state highway fund established by
34 section 28-6991. The department of transportation shall deposit, pursuant
35 to sections 35-146 and 35-147, any emissions inspection fee in the
36 emissions inspection fund. The provisions of this subsection do not apply
37 to those vehicles registered pursuant to title 28, chapter 7, article 7 or
38 8, the sale of vehicles between motor vehicle dealers or vehicles leased
39 to a person residing outside of area A or area B by a leasing company
40 whose place of business is in area A or area B.

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

1 1. For the purpose of determining compliance with minimum emissions
2 standards in area B for motor vehicles other than diesel powered vehicles
3 or constant four-wheel drive vehicles:

4 (a) A motor vehicle that is equipped with an onboard diagnostic
5 system required by section 202(m) of the clean air act shall be required
6 to take and pass an onboard diagnostic test OR A STEADY STATE LOADED TEST
7 AND CURB IDLE TEST AS APPROVED BY THE DIRECTOR.

8 (b) A motor vehicle with a model year of 1981 or later, other than
9 a vehicle covered by subdivision (a) of this paragraph, shall be required
10 to take and pass a steady state loaded test and curb idle test.

11 (c) A motor vehicle, other than a vehicle covered by subdivision
12 (a) or (b) of this paragraph, shall be required to take and pass a curb
13 idle test.

14 2. For the purposes of determining compliance with minimum
15 emissions standards and functional tests in area A for motor vehicles
16 other than diesel powered vehicles or constant four-wheel drive vehicles:

17 (a) A motor vehicle that is equipped with an onboard diagnostic
18 system required by section 202(m) of the clean air act shall be required
19 to take and pass an onboard diagnostic test OR A TRANSIENT LOADED TEST AS
20 APPROVED BY THE DIRECTOR.

21 (b) A motor vehicle with a model year of 1981 or later, other than
22 a vehicle covered by subdivision (a) of this paragraph, shall be required
23 to take and pass a transient loaded test.

24 (c) A motor vehicle, other than a vehicle covered by subdivision
25 (a) or (b) of this paragraph, shall be required to take and pass a steady
26 state loaded test and curb idle test.

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

29 (i) An evaporative system purge test.

30 (ii) An evaporative system integrity test.

31 3. For the purpose of determining compliance with minimum emissions
32 standards in area A or area B for diesel powered motor vehicles:

33 (a) A diesel powered motor vehicle that is equipped with an onboard
34 diagnostic system required by section 202(m) of the clean air act shall be
35 required to take and pass an onboard diagnostic test OR AN OPACITY TEST AS
36 APPROVED BY THE DIRECTOR.

37 (b) A diesel powered motor vehicle, other than a vehicle covered by
38 subdivision (a) of this paragraph, shall be required to take and pass an
39 emissions test as follows:

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

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

1 4. A constant four-wheel drive vehicle shall be required to take
2 and pass a curb idle test or an onboard diagnostic test.

3 5. Fleet operators must comply with this section, except that used
4 vehicles, other than diesel powered vehicles, sold by a motor vehicle
5 dealer who is a fleet operator and who has been issued a permit under
6 section 49-546 shall be tested as follows:

7 (a) A motor vehicle with a model year of 1980 or earlier shall take
8 and pass a curb idle test.

9 (b) A motor vehicle with a model year of 1981 or later, other than
10 a vehicle that is equipped with an onboard diagnostic system that is
11 required by section 202(m) of the clean air act, shall take and pass a
12 curb idle test and a twenty-five hundred revolutions per minute unloaded
13 test.

14 6. Vehicles owned or operated by the United States, this state or a
15 political subdivision of this state shall comply with this subsection
16 without regard to whether those vehicles are required to be registered in
17 this state, except that alternative fuel vehicles of a school district
18 that is located in area A, other than vehicles equipped with an onboard
19 diagnostic system required by section 202(m) of the clean air act, shall
20 be required to take and pass the curb idle test and the loaded test.

21 7. A diesel powered motor vehicle with a gross vehicle weight of
22 more than twenty-six thousand pounds and for which gross weight fees are
23 paid pursuant to title 28, chapter 15, article 2 in area A shall not be
24 allowed to operate in area A unless it was manufactured in or after the
25 1988 model year or is powered by an engine that is certified to meet or
26 surpass emissions standards contained in 40 Code of Federal Regulations
27 section 86.088-11 in effect on July 1, 1995. This paragraph does not
28 apply to vehicles that are registered pursuant to title 28, chapter 7,
29 article 7 or 8.

30 G. In addition to an emissions inspection, a vehicle is subject to
31 a tampering inspection as prescribed by rules adopted by the director if
32 the vehicle was manufactured after the 1974 model year.

33 H. Vehicles required to be inspected shall undergo a functional
34 test of the gas cap to determine if the cap holds pressure within limits
35 prescribed by the director. This subsection does not apply to any diesel
36 powered vehicle.

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

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

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

5 2. The exemption from inspection of:

6 (a) Except as otherwise provided in this subdivision, a motor
7 vehicle manufactured in or before the 1966 model year. If the United
8 States environmental protection agency issues a vehicle emissions testing
9 exemption for motor vehicles manufactured in or before the 1974 model year
10 for purposes of the state implementation or maintenance plan for air
11 quality, a motor vehicle manufactured in or before the 1974 model year is
12 exempt from inspection.

13 (b) New vehicles originally registered at the time of initial
14 retail sale and titling in this state pursuant to section 28-2153 or
15 28-2154.

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

18 (d) New vehicles before the sixth registration year after initial
19 purchase or lease.

20 (e) Vehicles that are outside of this state at the time of
21 registration, except the director by rule may require testing of those
22 vehicles within a reasonable period of time after those vehicles return to
23 this state.

24 (f) Golf carts.

25 (g) Electrically-powered vehicles.

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

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

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

31 (k) Collectible vehicles.

32 (l) Motorcycles.

33 (m) Cranes and oversize vehicles that require permits pursuant to
34 section 28-1100, 28-1103 or 28-1144.

35 (n) Vehicles that are not in use and that are owned by residents of
36 this state while on active military duty outside of this state.

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

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

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

1 6. Any other rule that may be required to accomplish the provisions
2 of this article.

3 K. The director, after consultation with automobile manufacturers
4 and the vehicle service and repair industry, shall establish by rule a
5 definition of "vehicle maintenance and repairs" for motor vehicles subject
6 to inspection under this article. The definition shall specify repair
7 procedures that, when implemented, will reduce vehicle emissions.

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

28 1. In area A the cost shall not exceed:

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

31 (b) Five hundred dollars for a diesel powered vehicle with tandem
32 axles.

33 (c) For a vehicle other than a diesel powered vehicle with a gross
34 weight in excess of twenty-six thousand pounds and other than a diesel
35 powered vehicle with tandem axles:

36 (i) Two hundred dollars for such a vehicle manufactured in or
37 before the 1974 model year.

38 (ii) Three hundred dollars for such a vehicle manufactured in the
39 1975 through 1979 model years.

40 (iii) Four hundred fifty dollars for such a vehicle manufactured in
41 or after the 1980 model year.

42 2. In area B the cost shall not exceed:

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

1 (b) Three hundred dollars for a diesel powered vehicle with tandem
2 axles.

3 3. 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 (a) Fifty dollars for such a vehicle manufactured in or before the
7 1974 model year.

8 (b) Two hundred dollars for such a vehicle manufactured in the 1975
9 through 1979 model years.

10 (c) Three hundred dollars for such a vehicle manufactured in or
11 after the 1980 model year.

12 M. Each person whose vehicle has failed an emissions inspection
13 shall be provided a list of those general recommended repair and
14 maintenance procedures for vehicles that are designed to reduce vehicle
15 emissions levels.

16 N. Notwithstanding any other provisions of this article, the
17 director may adopt rules allowing exemptions from the requirement that all
18 vehicles must meet the minimum standards for registration.

19 O. The director of environmental quality shall establish, in
20 cooperation with the assistant director for the motor vehicle division of
21 the department of transportation:

22 1. An adequate method for identifying bona fide residents residing
23 outside of area A or area B to ensure that such residents are exempt from
24 compliance with the inspection program established by this article and
25 rules adopted under this article.

26 2. A written notice that shall accompany the vehicle registration
27 application forms that are sent to vehicle owners pursuant to section
28 28-2151 and that shall accompany or be included as part of the vehicle
29 emissions test results that are provided to vehicle owners at the time of
30 the vehicle emissions test. This written notice shall describe at least
31 the following:

32 (a) The restriction of the waiver program to one time per vehicle
33 and a brief description of the implications of this limit.

34 (b) The availability and a brief description of the vehicle repair
35 and retrofit program established pursuant to section 49-474.03.

36 (c) Notice that many vehicles carry extended warranties for vehicle
37 emissions systems, and those warranties are described in the vehicle's
38 owner's manual or other literature.

39 (d) A description of the catalytic converter replacement program
40 established pursuant to section 49-474.03.

41 P. Notwithstanding any other law, if area A or area B is
42 reclassified as an attainment area, emissions testing conducted pursuant
43 to this article shall continue for vehicles registered inside that
44 reclassified area, vehicles owned by a person who is subject to section
45 15-1444 or 15-1627 and vehicles registered outside of that reclassified

1 area but used to commute to the driver's principal place of employment
2 located within that reclassified area.

3 Q. A fleet operator who is issued a permit pursuant to section
4 49-546 may electronically transmit emissions inspection data to the
5 department of transportation pursuant to rules adopted by the director of
6 the department of transportation in consultation with the director of
7 environmental quality.

8 R. The director shall prohibit a certificate of waiver pursuant to
9 subsection L of this section for any vehicle ~~which~~ THAT has failed
10 inspection in area A or area B due to the catalytic converter system.

11 S. The director shall establish provisions for rapid testing of
12 certain vehicles and to allow fleet operators, singly or in combination,
13 to contract directly for vehicle emissions testing.

14 T. Each vehicle emissions inspection station in area A shall have a
15 sign posted to be visible to persons who are having their vehicles tested.
16 This sign shall state that enhanced testing procedures are a direct result
17 of federal law.

18 U. The initial adoption of rules pursuant to this section shall be
19 deemed emergency rules pursuant to section 41-1026.

20 V. The director of environmental quality and the director of the
21 department of transportation shall implement a system to exchange
22 information relating to the waiver program, including information relating
23 to vehicle emissions test results and vehicle registration information.

24 W. Any person who sells a vehicle that has been issued a
25 certificate of waiver pursuant to this section after January 1, 1997 and
26 who knows that a certificate of waiver has been issued after January 1,
27 1997 for that vehicle shall disclose to the buyer before completion of the
28 sale that a certificate of waiver has been issued for that vehicle.

29 X. Vehicles that fail the emissions test at emission levels higher
30 than twice the standard established for that vehicle class by the
31 department pursuant to section 49-447 are not eligible for a certificate
32 of waiver pursuant to this section unless the vehicle is repaired
33 sufficiently to achieve an emissions level below twice the standard for
34 that class of vehicle.

35 Y. If an insurer notifies the department of transportation of the
36 cancellation or nonrenewal of collectible vehicle or classic automobile
37 insurance coverage for a collectible vehicle, the department of
38 transportation shall cancel the registration of the vehicle and the
39 vehicle's exemption from emissions testing pursuant to this section unless
40 evidence of coverage is presented to the department of transportation
41 within sixty days.

42 Z. For the purposes of this section, "collectible vehicle" means a
43 vehicle that complies with both of the following:

1 1. Either:

2 (a) Bears a model year date of original manufacture that is at
3 least fifteen years old.

4 (b) Is of unique or rare design, of limited production and an
5 object of curiosity.

6 2. Meets both of the following criteria:

7 (a) Is maintained primarily for use in car club activities,
8 exhibitions, parades or other functions of public interest or for a
9 private collection and is used only infrequently for other purposes.

10 (b) Has a collectible vehicle or classic automobile insurance
11 coverage that restricts the collectible vehicle mileage or use, or both,
12 and requires the owner to have another vehicle for personal use.

13 Sec. 3. Laws 2014, chapter 89, section 6 is amended to read:

14 Sec. 6. Conditional enactment

15 A. Section 49-542, Arizona Revised Statutes, as amended by LAWS
16 2014, CHAPTER 89, section 3 ~~of this act~~ and section 49-542.03, Arizona
17 Revised Statutes, as amended by LAWS 2014, CHAPTER 89, section 5 ~~of this~~
18 ~~act~~, do not become effective unless on or before July 1, ~~2017~~ 2020 the
19 United States environmental protection agency approves the proposed
20 modifications to the vehicle emissions testing program protocols as part
21 of the state implementation plan for air quality.

22 B. The director of the department of environmental quality shall
23 ~~promptly~~ notify in writing the director of the Arizona legislative council
24 ~~of the date~~ on OR BEFORE SEPTEMBER 1, 2020 EITHER:

25 1. OF THE DATE ON which the condition ~~prescribed in subsection A of~~
26 ~~this section is~~ WAS met. ~~or if~~

27 2. THAT the condition ~~is~~ WAS not met.

28 Sec. 4. Retroactivity

29 Laws 2014, chapter 89, section 6, as amended by this act, applies
30 retroactively to from and after June 30, 2017.

31 Sec. 5. Conditional enactment

32 Section 49-542, Arizona Revised Statutes, as amended by Laws 2014,
33 chapter 89, section 3 and this act, becomes effective on the date
34 prescribed by Laws 2014, chapter 89, section 6, as amended by this act,
35 but only on the occurrence of the condition prescribed by Laws 2014,
36 chapter 89, section 6, as amended by this act.

APPROVED BY THE GOVERNOR MARCH 21, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 21, 2017.

Passed the House February 1, 20 17

Passed the Senate March 13, 20 17

by the following vote: 60 Ayes,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Pro Tempore

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this
15th day of March, 20 17

at 4:02 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 21st day of

March, 2017

at 10:48 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State
this 21 day of March, 20 17

H.B. 2131

at 4:51 o'clock P. M.

[Signature]
Secretary of State