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Code:  Section:

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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 26. AIR RESOURCES [39000 - 44475.3]** ( *Division 26 repealed and added by Stats. 1975, Ch. 957. )*

**PART 5. VEHICULAR AIR POLLUTION CONTROL [43000 - 44299.91]** ( *Part 5 added by Stats. 1975, Ch. 957. )*

**CHAPTER 3. Used Motor Vehicles [43600 - 43707]** ( *Chapter 3 added by Stats. 1975, Ch. 957. )*

**ARTICLE 1. Device Certification [43600 - 43646]** ( *Article 1 added by Stats. 1975, Ch. 957. )*

**43600.** The state board shall adopt and implement emission standards for used motor vehicles for the control of emissions therefrom, which standards the state board has found to be necessary and technologically feasible to carry out the purposes of this division; however, the installation of certified devices on used motor vehicles shall not be mandated except by statute. Such standards may be applicable to motor vehicle engines, rather than to motor vehicles.

(*Added by Stats. 1975, Ch. 957.*)

**43601.** The state board shall certify exhaust devices for 1955 through 1965 model year motor vehicles.

(*Added by Stats. 1975, Ch. 957.*)

**43602.** An exhaust device certified by the state board pursuant to Section 43601 shall not allow emissions exceeding any of the following:

- (a) 350 parts per million hydrocarbons.
- (b) 2 percent carbon monoxide.
- (c) 800 parts per million nitrogen oxide.

However, if no exhaust device meets all three of the maximums specified in subdivisions (a), (b), and (c), the state board may certify an exhaust device which meets any two of the three maximums specified, if the installation of such a device in a motor vehicle would not increase the other emission in excess of the emission of that pollutant by the vehicle in the absence of such a device.

If two or more exhaust devices are certified that they meet the requirements of this section, the state board may not require the installation of more than one exhaust device on any motor vehicle.

(*Added by Stats. 1975, Ch. 957.*)

**43603.** The state board shall adopt, by regulation, criteria for the certification of exhaust devices pursuant to Section 43601. Such criteria shall include, but not be limited to, requirements that:

- (a) The device meets the cost and performance requirement specified in Section 43604.
- (b) The device shall not allow exhaust emissions exceeding the amount specified in Section 43602.
- (c) The manufacturer of the device comply with Section 43635.

(*Added by Stats. 1975, Ch. 957.*)

**43604.** An exhaust device certified pursuant to Section 43601:

- (a) Shall not cost, including the cost of installation, more than eighty-five dollars (\$85).
- (b) Shall not require maintenance more than once each 12,000 miles of operation, and such maintenance shall not cost, including the cost of parts and labor, more than fifteen dollars (\$15).
- (c) Shall equal or exceed the performance criteria established by the state board for such devices for new motor vehicles or, in the alternative, have an expected useful life of at least 30,000 miles of operation.

(*Added by Stats. 1975, Ch. 957.*)

**43610.** The state board shall set standards for, and certify, exhaust devices to significantly reduce the emission of oxides of nitrogen from 1966 through 1970 model year motor vehicles, as determined by the state board from a representative sampling of such motor vehicles, which the state board has found to be necessary and technologically feasible to carry out the purposes of this division.

In setting standards under this section, the primary consideration shall be the greatest possible reduction of oxides of nitrogen.

*(Added by Stats. 1975, Ch. 957.)*

**43611.** The state board shall adopt, by regulation, criteria for the certification of exhaust devices pursuant to Section 43610. Such criteria shall include, but not be limited to, requirements that:

(a) The device meets the cost and performance requirements specified in Section 43612.

(b) The device shall not allow exhaust emissions of oxides of nitrogen exceeding the standard adopted by the state board pursuant to Section 43610.

(c) The manufacturer of the device comply with Sections 43613 and 43635.

*(Added by Stats. 1975, Ch. 957.)*

**43612.** An exhaust device certified pursuant to Section 43610:

(a) Shall not cost, including the cost of installation, more than thirty-five dollars (\$35).

(b) Shall not require maintenance more than once each 12,000 miles of operation, and such maintenance shall not cost, including the cost of parts and labor, more than fifteen dollars (\$15).

(c) Shall equal or exceed the performance criteria established by the state board for devices for new motor vehicles or, in the alternative, have an expected useful life of at least 50,000 miles of operation.

*(Added by Stats. 1975, Ch. 957.)*

**43613.** The manufacturer of an exhaust device certified pursuant to Section 43610 shall include, with the sale of such device, instructions setting forth what steps the purchaser should take to maintain such device in proper working condition.

*(Added by Stats. 1975, Ch. 957.)*

**43614.** After one or more devices are initially certified pursuant to Section 43610, no device shall be certified under that section which is less effective than the one or ones initially certified. Any subsequent certification of a more effective device shall not affect the certification of a previously certified device.

*(Added by Stats. 1975, Ch. 957.)*

**43630.** (a) In addition to certifying devices which meet the standards set forth in, or established pursuant to, Sections 43602 and 43610, the state board shall adopt standards for certifying exhaust devices which achieve a reduction of the emission of hydrocarbons, carbon monoxide, and oxides of nitrogen from the exhaust of a motor vehicle substantially below the standards for any two pollutants set forth in, or established pursuant to, Section 43602 or 43610.

If, however, an exhaust device is shown to substantially reduce the emission of any two of the three pollutants, the state board may certify such a device, so long as the installation of such device in a motor vehicle does not increase the emission of the other pollutant in excess of the emission of that pollutant by the vehicle in the absence of such a device.

(b) Devices certified pursuant to this section may be certified without regard to the provisions of subdivision (a) of Section 43604 or subdivision (a) of Section 43612.

(c) After one or more such devices are initially certified, no device shall be certified pursuant to this section which is substantially less effective than any device previously certified, unless the state board determines, pursuant to a cost-benefit analysis, that such less effective device is also substantially less costly and therefore merits certification. Any subsequent certification of a more effective device shall not affect the certification of a previously certified device.

(d) The state board may permit the installation of a device certified pursuant to this section in lieu of any certified motor vehicle pollution control device which is required to be installed pursuant to any other provision of state law, if the installation of such device on that particular classification of motor vehicles results in no greater emissions than if the required certified device were operative over the life of the vehicle. The applicant shall be responsible for proving compliance with this subdivision and with other applicable criteria. Certificates of compliance shall be required upon the installation of a device certified pursuant to this section and installed pursuant to this subdivision, as if it were a device required by any other provision of state law.

*(Added by Stats. 1975, Ch. 957.)*

**43635.** As a condition to the certification of any motor vehicle pollution control device required under this chapter, except Section 43630, the manufacturer of such a device, in order to protect the public interest, shall agree to either of the following:

(a) That, until two or more such devices are certified for the same subclassification of motor vehicles, he enter into such cross-licensing or other agreements the state board determines, after a public hearing, are necessary to insure adequate competition among manufacturers of such devices.

(b) That, if his device is the only one made available to the public, the retail price of the device, including installation, does not exceed the price established, after a public hearing, by the state board for that device.

*(Added by Stats. 1975, Ch. 957.)*

**43636.** (a) In establishing the fair and reasonable retail price for a motor vehicle pollution control device for purposes of subdivision (b) of Section 43635, the state board shall take into consideration the cost of manufacturing the device and the manufacturer's suggested retail price.

(b) The price established by the state board shall, in no case, exceed the amount specified in subdivision (a) of Section 43604 or subdivision (a) of Section 43612, as the case may be.

*(Added by Stats. 1975, Ch. 957.)*

**43640.** The state board may revoke, suspend, or restrict a certification of a previously certified device, or an exemption previously granted, upon a determination by the state board that the device no longer operates within the applicable criteria and standards adopted by the state board or no longer should be exempted.

Such a determination may be based on any relevant information, including, but not limited to, a change in the device, significant differences between certified and production models, or new data which bear upon the applicable certification criteria or standards and require the revocation of the device.

*(Added by Stats. 1975, Ch. 957.)*

**43641.** Proceedings to review the denial of an application for certification or exemption, or proceedings to revoke, suspend, or restrict a certification previously granted by the state board, shall, upon the timely request of the applicant or affected manufacturer, be conducted by the state board in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and the state board shall have all the powers granted therein to the Office of Administrative Hearings.

*(Added by Stats. 1975, Ch. 957.)*

**43642.** Certification for a motor vehicle pollution control device may be revoked by the state board, if the actual cost of the device installed exceeds the cost permitted by law or established pursuant to subdivision (b) of Section 43635.

*(Added by Stats. 1975, Ch. 957.)*

**43643.** Any motor vehicle equipped with a certified device shall not be deemed in violation of the provisions of this part, or Section 27156 of the Vehicle Code, because the certification of the device is subsequently revoked, suspended, or restricted.

Replacement parts for the device may continue to be supplied and used for such vehicle, unless the revocation, suspension, or restriction is based upon a finding that the certified device has been found to be unsafe in actual use or is otherwise mechanically defective, in which event the device shall be brought into compliance with the provisions of this part within 30 days after such a finding.

*(Added by Stats. 1975, Ch. 957.)*

**43644.** (a) No person shall install, sell, offer for sale, or advertise, or, except in an application to the state board for certification of a device, represent, any device as a motor vehicle pollution control device for use on any used motor vehicle unless that device has been certified by the state board. No person shall sell, offer for sale, advertise, or represent any motor vehicle pollution control device as a certified device which, in fact, is not a certified device. Any violation of this subdivision is a misdemeanor.

(b) Subdivision (a) shall not preclude any person from installing, selling, offering for sale, or advertising a device as a motor vehicle pollution control device for use on a particular classification of used motor vehicles if the state board has found that the installation of the device on that particular classification of used motor vehicle results in such vehicles meeting the state exhaust emissions standards.

*(Added by Stats. 1975, Ch. 957.)*

**43645.** Whenever the state board certifies a motor vehicle pollution control device for the control of emissions of pollutants from a particular source of emissions from motor vehicles for which standards have been set by this part or by the state board, it shall so notify the Department of Motor Vehicles, the Department of the California Highway Patrol, and the bureau.

*(Amended by Stats. 1995, Ch. 91, Sec. 86. Effective January 1, 1996.)*

**43646.** (a) The bureau, in consultation with the state board, may develop, not later than 180 days from the operative date of this section, a list of engine maintenance practices that are designed to improve a motor vehicle's engine operating efficiency. The bureau shall conduct any evaluations that it determines to be necessary to identify the extent to which various maintenance practices could reduce vehicle emissions, and the minimum periodic application of each maintenance practice that is required to achieve the desired improvement in engine operating efficiency. The bureau may contract with private automotive testing services to carry out the evaluations.

(b) The bureau shall make the list available to the public, and shall specify therein the extent to which each maintenance practice can be expected to reduce vehicle emissions, and how the application of each practice could result in a reduction of the vehicle's smog index.

(c) A motor vehicle owner who subjects his or her vehicle to enhanced maintenance practices, as established by the bureau, may submit the vehicle to an in-use emissions evaluation at a smog check station to determine if excessive in-use emissions have been reduced. If the vehicle is certified as having reduced its emissions relative to its last in-use emissions evaluation, the Department of Motor Vehicles shall adjust the smog index for the vehicle. Vehicles receiving adjustments pursuant to this subdivision shall submit to annual in-use emissions evaluations to maintain their adjusted smog index. A failure to submit an annual in-use emissions evaluation to the Department of Motor Vehicles shall result in the vehicle's smog index being adjusted to its original level.

(d) This section shall become inoperative pursuant to Section 33 of the act adding this section or, in any case, five years from the date determined pursuant to Section 32 of the act adding this section, and on the January 1 following the date upon which this section becomes inoperative, is repealed.

*(Added by Stats. 1994, Ch. 1192, Sec. 14. Effective January 1, 1995. Operative on date prescribed by Sec. 32 of Ch. 1192. Inoperative, as provided in subd. (d), under conditions in Sec. 33 of Ch. 1192, or five years from prescribed operative date. Repealed on January 1 after inoperative date, by its own provisions.)*