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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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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 AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)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 3. Heavy-Duty Motor Vehicles [43700 - 43704] (*Article 3 added by Stats. 1990, Ch. 1453, Sec. 1.*)

43700. The Legislature finds and declares all of the following:

- (a) Significant reductions in diesel emissions from existing vehicles can be achieved by the adoption of stricter diesel fuel specifications on sulfur, aromatics, and other fuel properties.
- (b) The state board, in consultation with the State Department of Health Services, is evaluating the potential carcinogenic effects of specific constituents of diesel exhaust. Diesel exhaust is known to include, as constituents, many substances known or suspected to be toxic air contaminants.
- (c) The Environmental Protection Agency has agreed to study the health effects of various fuels, including diesel, to determine the relative impacts on public health and the environment.
- (d) Notwithstanding the ongoing study and review, reduction of emissions from diesel powered vehicles, to the maximum extent feasible, is in the best interests of air quality and public health.

(*Added by Stats. 1990, Ch. 1453, Sec. 1.*)

43700.1. (a) The state board shall convene a panel of interested parties to develop a test protocol for the evaluation of California Air Resources Board (CARB) diesel fuel, and to recommend to the executive officer of the state board a subsequent test program that measures the emissions benefits of CARB diesel fuel.

(b) No later than December 31, 2007, the state board shall complete the test program described in subdivision (a), and shall submit the results of the test program to the Senate Committee on Environmental Quality, the Senate Committee on Transportation and Housing, and the Assembly Committee on Transportation.

(*Added by Stats. 2006, Ch. 11, Sec. 2. Effective January 1, 2007.*)

43701. (a) (1) Not later than July 15, 1992, the state board, in consultation with the bureau and the review committee established pursuant to subdivision (a) of Section 44021, shall, after a public hearing, adopt regulations that require that owners or operators of heavy-duty diesel motor vehicles perform regular inspections of their vehicles for excessive emissions of smoke. The inspection procedure, the frequency of inspections, the emission standards for smoke, and the actions the vehicle owner or operator is required to take to remedy excessive smoke emissions shall be specified by the state board. Those standards shall be developed in consultation with interested parties. The smoke standards adopted under this subdivision shall not be more stringent than those adopted under Chapter 5 (commencing with Section 44000).

(2) (A) On or before December 31 of each year, a fleet shall comply with the regulations and standards for that calendar year.

(B) For purposes of this paragraph, "fleet" means any group of two or more heavy-duty diesel-fueled vehicles that are owned or operated by the same person.

(b) Not later than December 15, 1993, the state board shall, in consultation with the State Energy Resources Conservation and Development Commission, and after a public hearing, adopt regulations that require that heavy-duty diesel motor vehicles subject to subdivision (a) utilize emission control equipment and alternative fuels. The state board shall consider, but not be limited to, the use of cleaner burning diesel fuel, or other methods that will reduce gaseous and smoke emissions to the greatest extent feasible, taking into consideration the cost of compliance. The regulations shall provide that any significant modification of the engine necessary to

meet these requirements shall be made during a regularly scheduled major maintenance or overhaul of the vehicle's engine. If the state board requires the use of alternative fuels, it shall do so only to the extent those fuels are available.

(c) The state board shall adopt emissions standards and procedures for the qualification of any equipment used to meet the requirements of subdivision (b), and only qualified equipment shall be used.

(d) To the extent permissible under federal law, commencing January 1, 2006, the owner or operator of any commercial motor truck, as defined in Section 410 of the Vehicle Code, with a gross vehicle weight rating (GVWR) greater than 10,000 pounds that enters the state for the purposes of operating in the state shall maintain, and provide upon demand to enforcement authorities, evidence demonstrating that its engine met the federal emission standards applicable to commercial heavy-duty engines for that engine's model-year at the time it was manufactured, pursuant to the protocol and regulations developed and implemented pursuant to subdivision (e).

(e) The state board, not later than January 1, 2006, in consultation with the Department of the California Highway Patrol, shall develop, adopt, and implement regulations establishing an inspection protocol for determining whether the engine of a truck subject to the requirements of subdivision (d) met the federal emission standard applicable to heavy-duty engines for that engine's model-year at the time it was manufactured.

(Amended by Stats. 2012, Ch. 242, Sec. 1. (AB 1922) Effective January 1, 2013.)

43702. (a) Any revenues received by the state board from any variance fees imposed upon manufacturers who receive a variance from the standards for the content of diesel fuel adopted by the state board, which apply on and after October 1, 1993, shall be deposited in the Diesel Fuel Trust Fund, which is hereby created in the State Treasury. The money in the trust fund may be expended only upon appropriation by the Legislature in accordance with subdivisions (b) and (c).

(b) The money in the Diesel Fuel Trust Fund shall be expended to reimburse owners of diesel fuel-powered engines and diesel fuel-powered equipment for damage to fuel injection system elastomer components which can be established as the result of the use of the diesel fuel and which is damage that is not the responsibility of the manufacturer.

(c) The state board shall develop and implement, by November 30, 1994, a reimbursement program to include all of the following:

(1) An application for reimbursement claims, to be submitted to the state board, that requires documentation that supports a claim of damage to diesel fuel injection system elastomer components. The documentation shall consist of repair records from an authorized engine repair business or fleet repair facility which verify that diesel fuel injection system elastomer component damage occurred on and after September 1, 1993, and that the failure occurred as the result of diesel fuel which met the standards for the content of diesel fuel adopted by the state board, which applied on and after October 1, 1993.

(2) Claimants shall demonstrate evidence of ownership of a vehicle or equipment for which damage is claimed by providing copies of ownership records.

(3) Claimants with valid claims shall be reimbursed for the cost of repairs up to a maximum amount for each of the following two classes of vehicle or equipment, as follows:

(A) Owners of light-duty vehicles, small marine engines, and stationary units, including, but not limited to, utility engines, compressors, pumps, and generators, shall be reimbursed for damage not exceeding four hundred fifty dollars (\$450) for each claim.

(B) Owners of heavy-duty onroad vehicles and offroad agricultural and construction equipment shall be reimbursed for damage not exceeding five hundred fifty dollars (\$550) for each claim.

(4) Claimants shall be limited to one claim for each vehicle or equipment unit.

(5) The state board shall develop an audit component within the reimbursement program to identify fraudulent claims.

(6) All applications for claims shall be postmarked not later than midnight, March 1, 1995. Applications arriving after that deadline are invalid and shall be returned to the sender.

(7) The state board shall not pay any claims until all claims have been reviewed and the state board can make a reasonable estimate of the total amount of valid claims. If the amount exceeds the amount of money in the Diesel Fuel Trust Fund, reimbursement for valid claims shall be prorated in each class specified in paragraph (3).

(8) The state board shall give notice of the reimbursement program by publication in major newspapers of general circulation in the state. That notice shall fully describe the reimbursement program, including, but not limited to, the limits of reimbursement and the possible proration of claims in the event that valid claims exceed the amount of money in the Diesel Fuel Trust Fund.

(9) The state board may expend an amount not to exceed three hundred thousand dollars (\$300,000) from the Diesel Fuel Trust Fund to administer the reimbursement program.

(10) The state board may contract with a private mediation firm to review and adjudicate claims.

(11) The state board may adopt guidelines for administering the reimbursement program after providing adequate opportunity for public review and comment. Guidelines adopted by the state board pursuant to this paragraph shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The Legislature hereby finds and declares that the reimbursement program shall not be considered to be mitigation for the impacts of the standards adopted by the state board for the formulation of diesel fuel, and by the enactment of this section, the state is not thereby assuming any responsibility for mitigating impacts on operators of diesel vehicles or equipment arising from the implementation of the standards. The Legislature further finds and declares that the reimbursement program is a proper use of public funds and serves a necessary public purpose.

(Amended by Stats. 1995, Ch. 91, Sec. 89. Effective January 1, 1996.)

43704. Any person who violates Section 2485 of Title 13 of the California Code of Regulations is subject to a minimum civil penalty of three hundred dollars (\$300).

(Added by Stats. 2007, Ch. 592, Sec. 4. Effective January 1, 2008.)