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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 AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.)*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 5. Motor Vehicle Inspection Program [44000 - 44127] (*Chapter 5 added by Stats. 1982, Ch. 892, Sec. 2.)*

ARTICLE 8. Gross Polluters [44080 - 44086] (*Article 8 added by Stats. 1992, Ch. 972, Sec. 1.)*

44080. The Legislature finds and declares as follows:

- (a) California's air is the most polluted in the nation and the largest source of that pollution is automobiles.
- (b) California has the most stringent new car emission standards in the nation as well as a vehicle inspection (smog check) program that result in most cars producing very little pollution.
- (c) A small percentage of automobiles cause a disproportionate and significant amount of the air pollution in California.
- (d) These gross polluters are primarily vehicles in which the emission control equipment has been disconnected or which are very poorly maintained.
- (e) New technologies, such as remote sensing, can identify gross polluters on the roads, enabling law enforcement authorities to stop, inspect, and cite vehicles with disconnected emission control equipment, and can promote the development of incentives for the repair of other high-emitting vehicles.
- (f) Requiring owners to reconnect emission control equipment and developing incentives for needed maintenance on high-emitting vehicles may be cost-effective methods to reduce emissions and help achieve air quality standards in many districts.

(*Added by Stats. 1992, Ch. 972, Sec. 1. Effective January 1, 1993.*)

44081. (a) (1) The department, in cooperation with the state board, shall institute procedures for auditing the emissions of vehicles while actually being driven on the streets and highways of the state. The department may undertake those procedures itself or seek a qualified vendor of these services. The primary object of the procedures shall be the detection of gross polluters. The procedures shall consist of techniques and technologies determined to be effective for that purpose by the department, including, but not limited to, remote sensing. The procedures may include pullovers for roadside emissions testing and inspection. The department shall consider the recommendations of the review committee based on the outcome of the pilot demonstration program conducted pursuant to Section 44081.6.

(2) The department may additionally use other methods to identify gross polluting vehicles for out-of-cycle testing and repair.

(b) The department shall, by regulation, establish a program for the out-of-cycle testing and repair of motor vehicles found, through roadside auditing, to be emitting at levels that exceed specified standards. The program shall include all of the following elements:

(1) Emission standards, and test and inspection procedures and regulations, adopted in coordination with the state board, applicable to vehicles tested during roadside auditing. Emission standards for issuance of a notice of noncompliance to a gross polluter shall be designed to maximize the identification of vehicles with substantial excess emissions.

(2) Procedures for issuing notices of noncompliance to owners of gross polluters, either at the time of the roadside audit, or subsequently by certified mail, or by obtaining a certificate of mailing as evidence of service, using technologies for recording license plate numbers. The notice of noncompliance shall provide that, unless the vehicle is brought to a designated test-only facility or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, for emissions testing within 30 days, the owner is required to pay an administrative fee of five hundred dollars (\$500) to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership of the vehicle, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars (\$5) per day up to the five hundred dollars (\$500) maximum.

(3) Procedures for the testing of vehicles identified as gross polluters by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, to confirm that the vehicle exceeds the minimum emission standard for gross polluters set by the department.

(4) Procedures requiring owners of vehicles confirmed as gross polluters to have the vehicle repaired, resubmitted for testing, and obtain a certificate of compliance from a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2, or removed from service as attested by a certificate of nonoperation from the Department of Motor Vehicles within 30 days or be required to pay an administrative fee of not more than five hundred dollars (\$500), to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars (\$5) per day up to the five hundred dollar (\$500) maximum. The registration of a vehicle shall not be issued or renewed if that vehicle has been identified as a gross polluter and has not been issued a certificate of compliance. Except as provided in subdivision (b) of Section 9250.18 of the Vehicle Code, any revenues collected by the Department of Motor Vehicles pursuant to this subdivision and Section 9250.18 of the Vehicle Code shall be deposited in the Vehicle Inspection and Repair Fund. If the ownership of the vehicle is transferred, the administrative fee provided for in this subdivision shall be waived if the vehicle is brought into compliance.

(5) A procedure for notifying the Department of Motor Vehicles of notices of noncompliance issued, so that the Department of Motor Vehicles may provide effective collection of the administrative fee. The Department of Motor Vehicles shall cooperate with, and implement the requirements of, the department in that regard.

(c) The department may adopt any other regulations necessary for the effective implementation of this section, as determined by the department.

(d) Upon the request of the department, the Department of the California Highway Patrol shall provide assistance in conducting roadside auditing, to consist of (1) the stopping of vehicles and traffic management, and (2) the issuance of notices of noncompliance to gross polluters. The department shall reimburse the Department of the California Highway Patrol for its costs of providing those services. The Department of Transportation and affected local agencies shall provide necessary assistance and cooperation to the department in the operation of the program.

(e) There shall be no repair cost limit imposed pursuant to Section 44017 for any repairs that are required to be made under the roadside auditing program, except as provided in Section 44017.

(f) This section does not apply to vehicles operating under a valid repair cost waiver or economic hardship extension issued pursuant to Section 44015.

(Amended by Stats. 2002, Ch. 1001, Sec. 7. Effective January 1, 2003.)

44081.6. (a) The California Environmental Protection Agency, the state board, and the department, in cooperation with, and with the participation of, the Environmental Protection Agency, shall jointly undertake a pilot demonstration program to do all of the following:

(1) Determine the emission reduction effectiveness of alternative loaded mode emission tests compared to the IM240 test.

(2) Quantify the emission reductions, above and beyond those required by Environmental Protection Agency regulation or by the biennial test requirement, achievable from a remote sensing-based program that identifies gross polluting and other vehicles and requires the immediate repair and retest of those gross polluting vehicles at a test-only station established by this chapter.

(3) Determine if high polluting vehicles can be identified and directed to test-only stations using criteria other than, or in addition to, age and model year, and whether this reduces the number of vehicles which would otherwise be subject to inspection at test-only stations.

(4) Qualify emission reductions above and beyond those that are required by the regulations of the Environmental Protection Agency, achievable from other program enhancements pursuant to this chapter.

(5) Determine the extent to which the capacity of the test-only station network established pursuant to Section 44010.5 needs to be expanded to comply with Environmental Protection Agency performance standards.

(b) The California Environmental Protection Agency shall enter into a memorandum of agreement with the Environmental Protection Agency to establish the protocol for the pilot demonstration program. The memorandum of agreement shall ensure, to the extent possible, that the Environmental Protection Agency will accept the results of the pilot demonstration program as the findings of the Administrator of the Environmental Protection Agency. The pilot demonstration program shall be conducted pursuant to the memorandum of agreement.

(c) The review committee established pursuant to Section 44021 shall review the protocol for the pilot demonstration program, as established in the signed memorandum of agreement, and recommend any modification that the review committee finds to be appropriate for the pilot demonstration program. Any such modification shall become effective only upon the written agreement of the California Environmental Protection Agency and the Environmental Protection Agency.

(d) The department shall contract, on behalf of the committee, with an independent entity to ensure quality control in the collection of data pursuant to the pilot demonstration program. The department shall also contract, on behalf of the committee, for an independent analysis of the data produced by the pilot demonstration program.

(e) Any contract entered into pursuant to this section shall not be subject to any restrictions that are applicable to contracts in the Government Code or in the Public Contract Code.

(f) To the extent possible, the pilot demonstration program shall be conducted using equipment, facilities, and staff of the state board, the department, and the Environmental Protection Agency.

(g) The pilot demonstration program shall provide for, but not be limited to, all of the following:

(1) For the purposes of this section, any vehicle subject to the inspection and maintenance program may be selected to participate in the pilot demonstration program regardless of when last inspected pursuant to this chapter.

(2) Registered owners of vehicles selected to participate in the pilot demonstration program shall make the vehicle available for testing within a time period and at a testing facility designated by the department. If necessary, the department shall increase the capacity of the existing referee network in the area or areas where the pilot demonstration program will be operating, in order to accommodate the convenient testing of selected vehicles.

(3) If the department finds that a vehicle is emitting excessive emissions, the vehicle owner shall be required to make necessary repairs within the existing cost limits and return to a testing facility designated by the department. The vehicle owner shall have additional repairs made if the repairs are requested and funded by the department. The department shall also fund the cost of any necessary repairs if the owner of the vehicle has, within the last two years, already paid for emissions-related repairs to the same vehicle in an amount at least equal to the existing cost limits, in order to obtain a certificate of compliance or an emission cost waiver.

(4) Vehicle owners who fail to bring the vehicle in for inspection or fail to have repairs made pursuant to this section shall be issued notices of noncompliance. The notice shall provide that, unless the vehicle is brought to a designated testing facility for testing, or repair facility for repairs, within 15 days of notice of the requirement, the owner will be required to pay an administrative fee of not more than five dollars (\$5) a day, not to exceed two hundred fifty dollars (\$250), to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership of the vehicle, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars (\$5) per day up to the two hundred fifty dollars (\$250) maximum. Except as provided in subdivision (b) of Section 9250.18 of the Vehicle Code, any revenues collected by the Department of Motor Vehicles pursuant to this subdivision and Section 9250.18 of the Vehicle Code shall be deposited into the Vehicle Inspection and Repair Fund by the Department of Motor Vehicles.

(h) The Department of Motor Vehicles, the Department of Transportation, local agencies, and the state board shall provide necessary support for the program established pursuant to this section.

(i) As soon as possible after the effective date of this section, the department and the state board shall develop, implement, and revise as needed, emissions test procedures and emissions standards necessary to conduct the pilot demonstration program.

(Amended by Stats. 2012, Ch. 728, Sec. 94. (SB 71) Effective January 1, 2013.)

44084. In addition to other programs authorized in this article, a district may, on or after March 1, 1993, establish programs to identify gross polluters and other high-emitting vehicles whose emissions could be reduced by repair, using remote sensors or other methods, and to provide financial incentives to encourage the repair or scrapping of these vehicles as a method of reducing mobile source emissions for the purposes of Section 40914. The programs authorized by this section are not intended to impose additional emission reduction requirements, but instead are intended to provide more cost-effective alternative methods to meet existing requirements.

(Added by Stats. 1992, Ch. 972, Sec. 1. Effective January 1, 1993.)

44085. Districts may establish procedures to generate marketable emission reduction credits from programs established pursuant to Section 44084. Emission reduction credits generated pursuant to this section may be used to meet or offset transportation control requirements, average vehicle ridership reductions, or other mobile source emission requirements, as determined by the district.

(Amended by Stats. 1996, Ch. 124, Sec. 75. Effective January 1, 1997.)

44086. Each district shall, in establishing, reviewing, or updating the plan required by Chapter 10 (commencing with Section 40910) of Part 3, consider the relative cost-effectiveness of the programs authorized in this article compared to other control measures under consideration.

(Added by Stats. 1992, Ch. 972, Sec. 1. Effective January 1, 1993.)