

SENATE BILL No. 508

July 12, 1989, Introduced by Senators N. SMITH, FAUST,
MILLER, O'BRIEN, CARL and GEAKE and referred to the
Committee on Economic Development.

A bill to provide for a mandatory motor vehicle emissions inspection and maintenance program in specified areas of the state; to prescribe the powers and duties of certain state agencies; to provide for the promulgation of rules; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "vehicle emission inspection and maintenance act".

3 Sec. 2. For purposes of this act, the words and phrases
4 defined in sections 3 to 5 have the meanings ascribed to them in
5 those sections.

6 Sec. 3. (1) "Affected area" means a specified geographic
7 place that contains a major urban area of adjacent communities
8 having a high degree of economic and social integration, which

1 urban area has a population of 200,000 or more, and where the
2 department of natural resources has determined pursuant to the
3 clean air act, that the national ambient air quality standards
4 for ozone or carbon monoxide will not be attained or have not
5 been attained by December 31, 1982.

6 (2) "Certificate of compliance" means a document that is
7 issued to the owner of a motor vehicle upon passing an inspection
8 or reinspection and is evidence that the motor vehicle inspected
9 or reinspected met the vehicle emission standards provided for
10 under this act.

11 (3) "Clean air act" means the clean air act, chapter 360, 69
12 Stat. 322, 42 U.S.C. 7401 to 7428, 7450 to 7459, 7470 to 7479,
13 7491, 7501 to 7508, 7521 to 7525, 7541 to 7546, 7548 to 7550,
14 7571 to 7574, 7601 to 7622, 7624 to 7626, and 7641 to 7642.

15 (4) "Consumer protection" means protecting the public from
16 unfair or deceptive practices.

17 (5) "Contractor" means a person who is under contract with
18 this state to provide emission inspection services.

19 (6) "Cut point" means the level of pollutants that are
20 emitted, which level aids in determining whether a particular
21 make and model of motor vehicle passes or fails an inspection.

22 (7) "Department" means the department of state.

23 Sec. 4. (1) "Emission control device" means a catalytic
24 converter, thermal reactor, or other component part prescribed by
25 regulations promulgated by the federal environmental protection
26 agency under section 207 of part A of title II of the clean air
27 act, 42 U.S.C. 7541.

1 (2) "Fleet" means 10 or more motor vehicles owned or leased
2 by 1 person.

3 (3) "Inspection" means checking and testing a motor vehicle
4 for compliance with a cut point and other requirements prescribed
5 by the rules promulgated under this act.

6 (4) "Low emission tune-up" means only those repairs which
7 will reduce motor vehicle emissions and may include any or all of
8 the following procedures to be prescribed by rules promulgated by
9 the department pursuant to this act:

10 (a) Checking and setting to manufacturer's specifications
11 idle mixture, idle speed, ignition timing and dwell.

12 (b) Checking for connection of vacuum lines and electrical
13 wires.

14 (c) Checking and replacement of air filter, crankcase venti-
15 lation system, spark plugs, and spark plug wires.

16 (5) "Motor vehicle" means a self-propelled vehicle as
17 defined in section 79 of the Michigan vehicle code, Act No. 300
18 of the Public Acts of 1949, being section 257.79 of the Michigan
19 Compiled Laws, of less than 8,500 pounds gross vehicle weight
20 which is required to be registered for use upon the public
21 streets and highways of this state under Act No. 300 of the
22 Public Acts of 1949, being sections 257.1 to 257.923 of the
23 Michigan Compiled Laws. For purposes of this act motor vehicle
24 includes those vehicles owned by the government of the United
25 States.

1 (6) "National ambient air quality standards" means the air
2 quality standards for outside air as established in the clean air
3 act.

4 Sec. 5. (1) "Person" means an individual, corporation,
5 association, partnership, sole proprietorship, or other legal
6 entity; this state; a city, village, township, or county; an
7 agency, department, or instrumentality of the federal government;
8 or an employee, officer, or agent of any of the above.

9 (2) "Pollutants" means motor vehicle emitted carbon monoxide
10 and hydrocarbons.

11 (3) "Tamper with" means to remove or render inoperative, or
12 cause to be removed or rendered inoperative, or to make less
13 operative, an emission control device, or an element of an emis-
14 sion control device that is required by federal law to be
15 installed on or in a motor vehicle.

16 (4) "Testing station" means a facility that is authorized
17 under this act to conduct inspections and reinspections.

18 (5) "Waiver" means a legal instrument that relinquishes this
19 state's authority to deny the registration of a motor vehicle
20 pursuant to this act and the rules promulgated under this act.

21 Sec. 6. (1) The department of natural resources shall
22 promulgate rules pursuant to the administrative procedures act of
23 1969, Act No. 306 of the Public Acts of 1969, being sections
24 24.201 to 24.328 of the Michigan Compiled Laws, regarding the
25 determination of an affected area. If a portion of the popula-
26 tion of a county is used in making the calculation of an urban
27 area which has a population of 200,000 or more for purposes of

1 determining an affected area pursuant to this act and the rules
2 promulgated under this section, the department of natural
3 resources shall include that entire county in the affected area.

4 (2) The department of natural resources shall notify the
5 department if the department of natural resources determines that
6 a specified county is in an affected area. The department of
7 natural resources shall consult with the local lead planning
8 agency of the affected area, as designated by the governor of
9 this state pursuant to Executive Directive No. 1973-1, in making
10 this determination.

11 (3) As soon as possible after the department is notified by
12 the department of natural resources of the circumstance stated in
13 subsection (2), mandatory biennial inspections and repairs neces-
14 sary to reduce motor vehicle emissions in an affected area shall
15 be conducted under this act and the rules promulgated under this
16 act.

17 Sec. 7. (1) The department with the concurrence of the
18 state transportation department shall promulgate rules pursuant
19 to the administrative procedures act of 1969, Act No. 306 of the
20 Public Acts of 1969, being sections 24.201 to 24.328 of the
21 Michigan Compiled Laws, that do all of the following:

22 (a) Establish vehicle cut points that are no more stringent
23 than the cut points prescribed by regulations promulgated by the
24 federal environmental protection agency under section 207 of part
25 A of title II of the clean air act, 42 U.S.C. 7541, and are
26 effective by December 31, 1982.

1 (b) Prescribe an emissions test in accordance with
2 regulations promulgated by the federal environmental protection
3 agency under section 207(b) of part A of title II of the clean
4 air act, 42 U.S.C. 7541.

5 (c) Subject to section 22, determine the persons who are to
6 perform the inspections.

7 (d) Prescribe the motor vehicles that are subject to this
8 act and the rules promulgated under this act.

9 (e) Prescribe the requirements for the registration or the
10 transfer of registration of a motor vehicle that is required to
11 be inspected under this act or the rules promulgated under this
12 act.

13 (f) Prescribe the requirements and procedures for issuing a
14 waiver or certificate of compliance. The procedures shall pro-
15 vide for the granting of waivers based on an evaluation of
16 receipts for repairs performed on the motor vehicle within 90
17 days of inspection or reinspection.

18 (g) Define the procedures and adjustments necessary for a
19 low emission tune-up.

20 (h) Establish and provide for the operation of a mechanic
21 training program designed to provide the training required to
22 properly make the repairs necessary to reduce motor vehicle
23 emissions.

24 (i) Unless the legislature provides by law for a state
25 income tax credit for persons paying the inspection fee, estab-
26 lish inspection fees, of not more than the maximum per vehicle
27 established by section 21, to be paid by a motor vehicle owner.

1 (j) Prescribe the terms of an exemption for certain motor
2 vehicle owners which will insure compliance with the federal
3 statutory and regulatory ambient air quality standards while not
4 exempting motor vehicle owners whose income exceeds the income
5 eligibility maximum for medicaid.

6 (2) In promulgating the rules pursuant to this section
7 regarding who will perform the inspections, the department and
8 the state transportation department shall enhance to the extent
9 possible the interest of the consumer in all of the following:

10 (a) Consumer cost and the cost of the program under this
11 act.

12 (b) Consumer convenience.

13 (c) Consumer choice.

14 (d) Consumer protection.

15 (3) The rules promulgated pursuant to this section regarding
16 the tests to be performed for the purposes of inspections under
17 this act shall prescribe tests that are in compliance with the
18 clean air act and the federal regulations for a performance war-
19 ranty test established pursuant to section 207(b) of part A of
20 title II of the clean air act, 42 U.S.C. 7541.

21 (4) The department and the state transportation department
22 in promulgating rules pursuant to this section shall consider and
23 may promulgate rules regarding the granting of an extension of
24 time in which repairs under this act may be made based on finan-
25 cial hardship as determined by the department and the state
26 transportation department.

1 Sec. 8. If the rules promulgated pursuant to section 7
2 provide for any inspections under this act to be performed by
3 contractors, and for purposes of inspections performed pursuant
4 to section 22 by a fleet inspection station, the department with
5 the concurrence of the state transportation department shall
6 promulgate rules regarding the contractors and fleet testing sta-
7 tions performing the inspections considered necessary by the
8 department and the state transportation department to implement
9 and enforce this act and meet the requirements of section 22,
10 including all of the following:

11 (a) The provisions of a contract with the contractor.

12 (b) The issuance, revocation, or suspension of a permit for
13 a fleet testing station.

14 (c) The determination of which agency or department shall
15 administer the rules promulgated pursuant to this section.

16 Sec. 9. (1) If the rules promulgated pursuant to section 7
17 provide for any inspections under this act to be performed by a
18 motor vehicle repair facility that is registered pursuant to the
19 motor vehicle service and repair act, Act No. 300 of the Public
20 Acts of 1974, being sections 257.1301 to 257.1340 of the Michigan
21 Compiled Laws, the department shall promulgate rules pursuant to
22 the administrative procedures act of 1969, Act No. 306 of the
23 Public Acts of 1969, being sections 24.201 to 24.328 of the
24 Michigan Compiled Laws, regarding the inspections to be performed
25 by a registered motor vehicle repair facility. The rules promul-
26 gated by the department pursuant to this section shall include
27 all of the following:

1 (a) Criteria for determining the eligibility of an applicant
2 for a license to perform inspections under this act including but
3 not limited to the adequacy of the facility, availability of the
4 required testing equipment, and the competence of the personnel
5 who will perform the tests for an inspection.

6 (b) The fee for an original license shall not exceed
7 \$50.00.

8 (c) The term of a license.

9 (d) Procedures for the operation of an inspection facility
10 licensed pursuant to the rules promulgated under this section.

11 (e) Provisions for adequate consumer protection.

12 (2) A testing station shall not perform inspections under
13 this act unless the testing station is licensed pursuant to the
14 rules promulgated under this section.

15 (3) The department, after notice and opportunity for a hear-
16 ing, may deny, suspend, or revoke a license for the performance
17 of inspections by a registered motor vehicle repair facility
18 under this act, if the department finds that an applicant, a
19 licensee, or an agent of an applicant or licensee has done any of
20 the following:

21 (a) Committed fraud, misrepresentation, trickery, or deceit
22 in connection with the inspection or repair of a motor vehicle
23 under this act or a rule promulgated under this act.

24 (b) Violated this act or a rule promulgated under this act.

25 (4) Instead of proceeding under subsection (3), or as a
26 means of settling a matter pursued under subsection (3), the
27 department may do any of the following:

1 (a) Enter into an assurance of discontinuance with an
2 applicant or licensee.

3 (b) Enter into a probation agreement with an applicant or
4 licensee.

5 (c) Enter into a suspension, revocation, or denial agreement
6 with an applicant or licensee.

7 Sec. 10. (1) A certificate of compliance shall be issued
8 according to the rules promulgated pursuant to section 7 to the
9 owner of a motor vehicle that passes an inspection or
10 reinspection.

11 (2) A waiver shall be issued to the owner of a motor vehicle
12 only according to the rules promulgated pursuant to section 7.

13 (3) The certificate of compliance and waiver shall be on
14 forms prescribed by the department.

15 (4) The department shall not issue a registration or trans-
16 fer the registration of a motor vehicle required to be inspected
17 under this act and the rules promulgated under this act unless
18 of the following occurs:

19 (a) The motor vehicle is exempt from this act as provided in
20 section 12.

21 (b) The owner of the motor vehicle presents a certificate of
22 compliance that was issued within the previous 6 months.

23 (c) The owner of the motor vehicle presents a waiver issued
24 pursuant to the rules promulgated under this act.

25 (d) The owner of a motor vehicle that is registered in
26 another state presents evidence that the motor vehicle passed an
27 inspection performed within the previous 6 months in another

1 state under procedures, requirements, and standards comparable to
2 those under this act or the rules promulgated under this act.

3 (e) The owner of the motor vehicle presents evidence that
4 the motor vehicle was purchased as a new motor vehicle within the
5 previous 12 months.

6 (f) The owner of the motor vehicle submits an application
7 for registration or transfer of registration in a county which is
8 not part of an affected area, and the owner presents evidence as
9 prescribed by the rules promulgated by the department pursuant to
10 the administrative procedures act of 1969, Act No. 306 of the
11 Public Acts of 1969, being sections 24.201 to 24.328 of the
12 Michigan Compiled Laws, that the owner's permanent place of resi-
13 dence is not in a county in an affected area.

14 Sec. 11. (1) The owner of a motor vehicle that is required
15 to be inspected under this act or the rules promulgated under
16 this act and that has failed the inspection shall have the motor
17 vehicle repaired according to the written results of the inspec-
18 tion issued pursuant to the rules promulgated under this act.
19 The owner of the motor vehicle shall have the motor vehicle
20 reinspected. The owner may have the motor vehicle reinspected
21 once, with no additional fee, if the motor vehicle is presented
22 for reinspection not more than 90 days after the inspection which
23 the motor vehicle failed.

24 (2) A repair that is required to be made under subsection
25 (1) may be made by the owner of the motor vehicle or a person
26 authorized to make the repair under the motor vehicle service and
27 repair act, Act No. 300 of the Public Acts of 1974, being

1 sections 257.1301 to 257.1340 of the Michigan Compiled Laws, this
2 act, and the rules promulgated under this act.

3 (3) If the estimated cost of necessary repairs under this
4 section exceeds \$71.00, as determined pursuant to the rules
5 promulgated under this act, then the owner shall obtain a low
6 emission tune-up before a certificate of compliance is issued for
7 the motor vehicle.

8 (4) If the estimated cost of necessary repairs under this
9 section is \$71.00 or less, as determined pursuant to the rules
10 promulgated under this act, then the necessary repairs to the
11 motor vehicle shall be performed.

12 (5) In determining the cost of necessary repairs under this
13 section, the following shall not be included:

14 (a) Costs covered by any warranty, insurance policy, or pre-
15 paid maintenance agreement for the benefit of the motor vehicle
16 owner.

17 (b) Costs necessary to repair or replace an emissions con-
18 trol device which has been tampered with in violation of section
19 13.

20 (6) The dollar amount specified in subsections (3) and (4)
21 shall be adjusted by the department on January 1 of each year to
22 reflect the percentage change in the consumer price index for all
23 urban consumers, United States city average, as determined by the
24 United States department of labor. The department shall annually
25 publish in a newspaper of general circulation in an affected area
26 determined under section 6 any change required by this section

1 and shall inform persons presenting vehicles for inspection of
2 the repair cost limit currently in effect.

3 Sec. 12. (1) The following motor vehicles are exempt from
4 this act:

5 (a) A motor vehicle produced before the 1972 model year.

6 (b) A new motor vehicle as defined in section 33a of the
7 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,
8 being section 257.33a of the Michigan Compiled Laws.

9 (c) A motorcycle, as defined in section 31 of Act No. 300
10 of the Public Acts of 1949, being section 257.31 of the Michigan
11 Compiled Laws.

12 (d) A moped, as defined in section 32b of Act No. 300 of
13 the Public Acts of 1949, being section 257.32b of the Michigan
14 Compiled Laws.

15 (e) A motor vehicle powered by a diesel engine.

16 (f) A motor vehicle that is electrically powered.

17 (g) A motor vehicle that is exempt under the terms of rules
18 promulgated pursuant to section 7(1)(j).

19 (2) A waiver of certificate of compliance is not required
20 for a motor vehicle described in this section.

21 Sec. 13. (1) A person shall not tamper with a motor
22 vehicle. This subsection does not apply to either the repair of
23 an emission control device, or an element of an emission control
24 device; or to the installation of a different emission control
25 device, or element of an emission control device if the different
26 device or element is certified by the federal environmental
27 protection agency.

1 (2) A person shall not advertise an offer to, or offer to,
2 tamper with a motor vehicle, except an offer to replace an emis-
3 sion control device or an element of the device with an emission
4 control device or an element of the device certified by the fed-
5 eral environmental protection agency.

6 (3) This section does not apply to the operation of a motor
7 vehicle for the purpose of testing the effectiveness of an emis-
8 sion control device or for the purpose of adjusting the engine of
9 the motor vehicle during repair.

10 Sec. 14. (1) A person who violates this act is guilty of a
11 misdemeanor, punishable by imprisonment for not more than 30
12 days, or a fine of not more than \$500.00, or both.

13 (2) A person who violates section 13(1) is subject to the
14 penalties provided in subsection (1) and shall be ordered by the
15 sentencing court to have his or her motor vehicle repaired and
16 inspected so that the motor vehicle complies with this act and
17 the rules promulgated under this act.

18 Sec. 15. The inspection and maintenance program required
19 under this act shall take effect not later than a date specified
20 by the federal environmental protection agency.

21 Sec. 16. At such time as the department of natural
22 resources determines that any affected area as defined in section
23 3 has attained and will maintain the national ambient air quality
24 standards for ozone and carbon monoxide as required by federal
25 statutory and federal regulatory requirements of the clean air
26 act, such affected area shall be exempt from the requirements of
27 this act.

1 Sec. 17. The department shall establish procedures for
2 receiving and investigating complaints relating to inspection and
3 repair of motor vehicles under this act.

4 Sec. 18. If the department of natural resources determines
5 that a county previously included within an affected area has
6 attained and will maintain the national ambient air quality stan-
7 dards for ozone and carbon monoxide as required by the clean air
8 act, then that county shall be immediately exempt from the
9 requirements of this act.

10 Sec. 19. The department shall not enforce this act if a
11 court of competent jurisdiction issues an injunction or restrain-
12 ing order against the United States environmental protection
13 agency to prohibit the imposition of any sanctions against the
14 state of Michigan for failure to comply with the clean air act,
15 until the injunction or restraining order is rescinded.

16 Sec. 20. (1) The attorney general shall bring a suit
17 against the United States environmental protection agency to
18 challenge the denial of stationary source pollution permits and
19 the withholding of federal funds because of the lack of an
20 approved state auto emissions inspection program.

21 (2) The attorney general shall seek an immediate injunction
22 to end the current sanctions pending the outcome of the suit
23 filed pursuant to subsection (1).

24 Sec. 21. A maximum inspection fee which may be required by
25 rule to be paid by the motor vehicle owner shall not be more than
26 \$10.00 per vehicle.

1 Sec. 22. (1) An owner or lessee of 10 or more motor
2 vehicles that are subject to inspection under this act may apply
3 to the department for a permit to establish a fleet testing
4 station. A fleet testing station permit shall be renewed
5 annually.

6 (2) A fleet testing station permit shall be issued by the
7 department if the applicant complies with the applicable rules
8 promulgated under sections 7 and 8 and meets all of the following
9 requirements:

10 (a) Maintains and repairs the fleet on a regular basis.

11 (b) Has available the equipment and trained personnel
12 required to perform tests required by rules promulgated pursuant
13 to sections 7 and 8.

14 (c) Agrees to maintain and report to the department data
15 required by the department and to permit agents of the department
16 to enter and inspect the testing station equipment, premises, and
17 records.

18 (3) The holder of a fleet testing station permit shall pro-
19 vide for the inspection of each fleet vehicle subject to inspec-
20 tion under this act, any repairs that are necessary to bring the
21 vehicle into compliance with this act, and shall report the
22 results of the inspection and repairs to the department. The
23 holder of a fleet testing station permit shall not issue
24 waivers.

25 Sec. 23. All rules promulgated pursuant to the former Act
26 No. 83 of the Public Acts of 1980, being sections 257.1051 to
27 257.1076 of the Michigan Compiled Laws, and in effect on

1 December 30, 1987 are adopted by reference and shall be in effect
2 until rescinded, amended, or superseded by rules promulgated
3 pursuant to this act.

4 Sec. 24. In order to clarify its status, Act No. 83 of the
5 Public Acts of 1980, being sections 257.1051 to 257.1076 of the
6 Michigan Compiled Laws, is repealed.