STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Reps. Brown, Gubow, Rivers, Leland, Dolan and Varga

ENROLLED HOUSE BILL No. 4165

AN ACT to establish a mandatory motor vehicle emissions inspection and maintenance program for certain motor vehicles in certain areas of this state; to prescribe certain powers and duties of certain state agencies and officials; to provide for the promulgation of rules; to prescribe certain fees; and to prescribe penalties and provide remedies.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "motor vehicle emissions inspection and maintenance program act".

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

Sec. 3. (1) "Alternative fuel" means the following fuel sources used to propel a motor vehicle:

(a) Compressed natural gas.

(b) Diesel fuel.

(c) Electric power.

(d) Propane.

(e) Any other source as defined by rule promulgated by the department.

(2) "Certificate of compliance" means a serially numbered written instrument or document that is issued to the owner of a motor vehicle upon passing an inspection or reinspection and is evidence that the motor vehicle complies with the standards and criteria adopted by the state transportation department under this act. The department shall consult with the department of natural resources when appropriate to determine that rules and standards will comply with federal requirements and sound environmental considerations.

(3) "Certificate of waiver" means a serially numbered written document or sticker indicating that the standards and criteria of the department have been met for a motor vehicle pursuant to the requirements of this act.

(4) "Clean air act" means chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q. Clean air act includes the regulations promulgated under the clean air act.

(5) "Consumer protection" means protecting the public from unfair or deceptive practices.

(6) "Contractor" means a person who enters into a contract with the department to operate public motor vehicle inspection stations under this act.

(7) "Cut point" means the level of pollutants emitted that is used in determining whether a particular make and model of motor vehicle passes or fails all or a part of an inspection.

(8) "Department" means the state transportation department.

Sec. 4. (1) "Emission control device" means a catalytic converter, thermal reactor, or other component part used by a vehicle manufacturer to reduce emissions or to comply with emission standards prescribed by regulations promulgated by the United States environmental protection agency under the clean air act.

(2) "Initial inspection" means an inspection performed on a motor vehicle for the first time in a test cycle.

(3) "Inspection" means testing of a motor vehicle for compliance with emission control requirements of this act and the clean air act.

(4) "Maintenance" means the repair or adjustment of a motor vehicle to bring that motor vehicle into compliance with emission control requirements of this act and rules promulgated under this act.

(5) "Motor vehicle" means a self-propelled vehicle as defined in section 79 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.79 of the Michigan Compiled Laws, of 10,000 pounds or less gross vehicle weight, which is required to be registered for use upon the public streets and highways of this state under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws. For purposes of this act, motor vehicle includes those vehicles owned by the government of the United States, this state, and any political subdivision of this state.

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

Sec. 5. (1) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(2) "Pollutants" means nitrogen oxides, carbon monoxide, hydrocarbons, and other toxic substances emitted from the operation of a motor vehicle.

(3) "Public inspection station" means a facility for motor vehicle inspection operated under contract with the department as provided in this act.

(4) "Rules" means rules promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(5) "Tamper with" means to remove or render inoperative, or cause to be removed or rendered inoperative, or to make less operative, an emission control device, or an element of an emission control device that is required by the clean air act to be installed in or on a motor vehicle.

(6) "Test-only network" means a network of inspection stations that perform official vehicle emissions inspections and in which owners and employees of those stations, or companies owning those stations, are contractually or legally barred from engaging in motor vehicle repair or service, motor vehicle parts sales, and motor vehicle sale and leasing, either directly or indirectly, and are barred from referring vehicle owners to particular providers of motor vehicle repair services.

Sec. 6. (1) There is established a motor vehicle emissions inspection and maintenance program fund to be maintained as a separate fund in the state treasury and to be administered by the department. Money received and collected for vehicle emissions inspections under this act shall be deposited in the state treasury to the credit of the motor vehicle emissions inspection and maintenance program fund.

(2) The vehicle emissions inspection account is created in the motor vehicle emissions inspection and maintenance program fund. Money in the vehicle emissions inspection account shall be appropriated by the legislature for the purposes of a public education program to be conducted by the department, start-up costs required to implement requirements of the motor vehicle emissions inspection and maintenance program under this act, administration and oversight by the department, enforcement of the motor vehicle emissions inspection and maintenance program through the vehicle registration process by the department of state, gasoline inspection and testing, and other activities related to the motor vehicle emissions inspection and maintenance program.

(3) Funds remaining in the motor vehicle emissions inspection and maintenance program fund at the end of a fiscal year shall not lapse but shall remain in the motor vehicle emissions inspection and maintenance program fund for appropriation in the following year.

Sec. 7. (1) Each motor vehicle subject to this act shall be inspected for emissions as provided in this act. A person shall not operate a motor vehicle subject to this act whose certificate of compliance has expired or who has not received a time extension or waiver and the vehicle fails to meet emission cut points established by the department or other emission control requirements established by the department in this act. If a vehicle subject to testing under this act

has not been tested within the previous 12 months, the prospective seller of the vehicle shall have the vehicle tested and complete necessary repairs before offering the vehicle for sale.

(2) To enforce this section, the department shall implement and administer a motor vehicle emissions inspection and maintenance program designed to meet the performance standards for a motor vehicle emissions inspection and maintenance program as established by the United States environmental protection agency in 40 C.F.R. 51.351. The motor vehicle emissions inspection and maintenance program shall include the following test procedures and components:

(a) Biennial testing.

(b) Test-only network.

(c) Transient mass-emission evaporative system, purge, and pressure testing on 1981 and later model year vehicles using the IM240 driving cycle.

(d) Two-speed idle testing, antitampering, and pressure test on 1975 to 1980 vehicles according to the following:

(*i*) Visual antitampering inspection of the catalytic converter, gas cap, PCV valve, air pump, and fuel inlet restrictor on light duty gas vehicles and light duty gas trucks of 10,000 pounds or less gross vehicle weight.

(*ii*) Pressure test of the evaporative system for light duty gas vehicles and light duty gas trucks of 10,000 pounds or less gross vehicle weight.

(e) On-board diagnostic check for vehicles so equipped.

(3) The cut points set forth in test procedures, quality control requirements, and equipment specifications issued by the United States environmental protection agency are hereby adopted for the emissions testing program authorized in this act.

(4) Equipment and test procedures shall meet the requirements of appendices A through E to subpart S of 40 C.F.R. 51 and the test procedures, quality control requirements, and equipment specifications issued by the United States environmental protection agency.

(5) Vehicles shall be subject to inspection according to the following:

(a) The first initial inspection under this act for each even numbered model year vehicle shall take place within 6 months before the expiration of the vehicle registration in an even numbered calendar year.

(b) The first initial inspection under this act for each odd numbered model year vehicle shall take place within 6 months before the expiration of the vehicle registration in an odd numbered calendar year.

(6) The motor vehicle emissions inspection and maintenance program shall be implemented by January 1, 1995, in the counties of Kent, Ottawa, and Muskegon. However, those counties containing areas which would be in attainment of the national ambient air quality standards for ozone, given baseline emissions for that county, but for emissions emanating from outside of the state are excluded if the United States environmental protection agency determines, based on a study of formation and transport of ozone, that the control of emissions in those areas would not significantly contribute to the attainment of the national ambient air quality standards for ozone as promulgated under the clean air act.

(7) The department, in consultation with the department of state and the department of natural resources, may promulgate rules for the administration of the motor vehicle emissions inspection and maintenance program, including, but not limited to:

(a) Standards for public inspection station equipment, including emission testing equipment.

(b) Emission test cut points and other emission control requirements based on the clean air act and the state implementation plan.

(c) Exemptions from inspections as authorized under this act.

(d) Standards and procedures for the issuance of certificates of compliance and certificates of waiver from inspection and maintenance program requirements.

(e) Rules to ensure that owners of motor vehicles registered in this state who temporarily reside out of state are not unduly inconvenienced by the requirements of this act. The rules may include:

(*i*) Reciprocal agreements with other states that require motor vehicle inspections that are at least as stringent as those required under this act and rules promulgated under this act.

(*ii*) Provision for time extensions of not more than 2 years for persons temporarily residing in a state, the District of Columbia, or a territory of the United States with which Michigan has not entered into a reciprocal agreement for vehicle emissions inspection and maintenance.

(*iii*) Additional time extensions shall be granted to persons temporarily residing out of state because of military service.

(8) The department may promulgate rules to require the inspection of motor vehicles through the use of remote sensing devices. These rules may provide for use of remote sensing devices for research purposes, but shall not provide

for any checklanes or other measures by which motorists will be stopped on highways or other areas open to the general public.

(9) Upon receipt of documentation from the department, the department of state may suspend the registration of any vehicle that is not in compliance with this act and the rules promulgated under this act and for which the required certificate of compliance has not been obtained.

(10) The department of natural resources shall submit an application requesting redesignation of the Grand Rapids ozone nonattainment area consisting of the counties of Kent and Ottawa and the Muskegon ozone nonattainment area consisting of the county of Muskegon to the environmental protection agency not later than November 14, 1993. If the application for redesignation is approved by the environmental protection agency, implementation of the motor vehicle emissions inspection and maintenance program authorized by this act is suspended and shall only be reimplemented if required as a contingency measure included in a maintenance plan approved by the environmental protection agency as part of the redesignation as an ozone attainment area. The department may only implement the contingency measure if there is observation of an actual violation of the ozone national ambient air quality standard under 40 C.F.R. 50.9 during the maintenance period.

(11) Implementation of a vehicle emissions inspection and maintenance program authorized by this act shall be suspended if the classification of the Grand Rapids and Muskegon ozone nonattainment areas are adjusted from moderate ozone nonattainment areas to transitional or marginal nonattainment areas by the environmental protection agency pursuant to its authority under section 181 of the clean air act or if the environmental protection agency determines that a motor vehicle emissions inspection and maintenance program is not applicable or is not necessary for either of these areas to meet the requirements of the clean air act.

Sec. 8. (1) The department of state shall not renew the registration of a motor vehicle subject to this act unless the vehicle has been inspected as provided in this act and a certificate of compliance or a certificate of waiver has been issued.

(2) Certificates of compliance and certificates of waiver issued under this act are valid for 2 years.

(3) If not exempted by this act or rules promulgated under this act, a person shall not drive a motor vehicle registered in an area required to have a motor vehicle emissions inspection and maintenance program without a valid certificate of compliance or certificate of waiver.

Sec. 9. Any area in Michigan subject to this act that is redesignated by the United States environmental protection agency as being in attainment with the national ambient air quality standards for ozone and has demonstrated maintenance of the standards without a vehicle emissions inspection and maintenance program shall be exempt from the requirements of this act. However, if the maintenance plan for any such redesignated area as approved by the United States environmental protection agency includes an inspection and maintenance program as part of its contingency plan, the department, in consultation with the department of natural resources, shall implement the required inspection and maintenance program.

Sec. 9a. The state should pursue judicial relief, either alone or in cooperation with other states, from the requirements or penalties imposed by the clean air act or regulations promulgated under that act.

Sec. 10. (1) The department, in consultation with the department of state, may establish an inspection fee not to exceed $24.00 adjusted annually by the percentage increase or decrease in the Detroit consumer price index rounded to the nearest whole dollar. In establishing the fee or other funding sources, the department shall include the direct and indirect costs of the vehicle emissions inspection, estimated start-up costs, estimated cost for a public information program, administration and oversight by the department, and enforcement costs by the department of state. The fee, if established, shall be paid by the motor vehicle owner to the operator of the inspection station at the time of an initial vehicle emissions inspection.

(2) Initial inspections must take place within 6 months before the expiration of the registration for the vehicle or the expiration of the certificate of compliance, time extension, or certificate of waiver issued under this act. Vehicles subject to this act that are not required to be registered in Michigan shall be presented for inspection during each biennial inspection period at a time set by the department.

(3) The owner of a motor vehicle subject to this act that has failed an initial vehicle emissions inspection shall be entitled to 1 free reinspection after the completion of necessary repairs designed to bring the vehicle into compliance with clean air act standards.

(4) By the fifteenth day of each month, each inspection station shall remit the amount of the inspection fee required for administration and oversight under the contractual agreement entered into with the department to the department of treasury for deposit in the motor vehicle emissions inspection and maintenance program fund.

Sec. 12. The following vehicles are exempt from the inspection requirements of this act:

(a) Motor vehicles that are exempted by rules promulgated by the department because of prohibitive inspection problems or inappropriateness for inspection.

(b) A motor vehicle manufactured before the 1975 model year.

(c) Vehicles that are licensed as historic vehicles under section 803a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.803a of the Michigan Compiled Laws.

(d) A motor vehicle that has as its only fuel source an alternative fuel.

(e) A motorcycle.

(f) A motor vehicle used for covert monitoring of inspection facilities.

(g) A new motor vehicle immediately after issuance of the vehicle's first title, until the year of the next biennial inspection for the vehicle model year according to section 7(5).

Sec. 13. (1) The department shall contract with a private entity or entities for the design, construction, equipment, establishment, maintenance, and operation of public inspection stations to conduct vehicle emissions inspections as required by this act.

(2) The department shall seek to obtain the highest quality service for the lowest cost through a competitive evaluation process for contractors.

(3) The department shall provide adequate public notice of the requests for proposals by advertising in a newspaper of general circulation in the state not later than the effective date of this act. The department shall award the contract with reasonable promptness by written notice to the responsible offeror whose proposal has been evaluated and is determined to be the most advantageous to the state, taking into consideration the requirements of this act and rules promulgated under this act, or as otherwise required by the department of management and budget.

(4) In addition to the other requirements of this act, the director shall give balanced consideration during the contractor evaluation process to all of the following factors:

(a) The public convenience of the inspection station, including the provisions for average mileage to an inspection station and the waiting time at a station.

(b) The unit cost per inspection.

(c) The degree of technical content of the proposal including test-accuracy specifications and quality of testing services, and the data and methodology used to prepare the network design and other technological aspects of the proposal.

(d) The experience of the contractor and the probability of a successful performance by the contractor including an evaluation of the capacity, resources, and technical and management skills to adequately construct, equip, operate, and maintain a sufficient number of public inspection stations to meet the demand.

(e) The financial stability of the contractor. The department may make reasonable inquiries to determine the financial stability of an offeror. The failure of an offeror to promptly supply information in connection with such an inquiry is grounds for a determination of nonresponsibility with respect to that offeror.

Sec. 14. In addition to any other provisions of this act, the contract authorized by section 13 shall contain all of the following provisions:

(a) The minimum requirements for adequate staff, equipment, management, and hours of operation of inspection stations.

(b) The submission of reports and documentation concerning the operation of official inspection stations as required by this act.

(c) Surveillance to ensure compliance with vehicular emissions standards, procedures, rules, regulations, and laws.

Sec. 15. (1) The number and locations of the public inspection stations shall provide convenient service for motorists and shall be consistent with all of the following:

(a) The network of stations shall be sufficient to assure short driving distances and to assure that waiting times to get a vehicle inspected do not exceed 15 minutes more than 4 times a month.

(b) When there are more than 4 vehicles in a queue waiting to be tested, spare lanes shall be opened and additional staff employed to reduce wait times.

(c) A person shall not be required to make an appointment for a vehicle inspection.

(d) There shall be adequate queuing space for each inspection lane at each inspection station to accommodate, on the station property, all motor vehicles waiting for inspection.

(e) There shall be at least 2 inspection stations located within each county subject to the motor vehicle emissions inspection and maintenance program under this act.

(2) Public inspection stations shall inspect and reinspect motor vehicles in accordance with this act.

(3) A public inspection station shall inspect and reinspect motor vehicles in accordance with the rules promulgated under this act by the department. The inspection station shall issue a certificate of compliance for a motor vehicle that has been inspected and determined to comply with the standards and criteria of the department pursuant to the rules promulgated under section 6. If a certificate of compliance is not issued, the inspection station shall provide a written inspection report describing the reason for rejection and, if appropriate, the repairs needed or likely to be needed to bring the vehicle into compliance with the standards and criteria.

(4) Stations shall provide a process by which vehicles being reinspected shall be accommodated before vehicles waiting for an initial inspection.

Sec. 16. (1) A certificate of waiver shall be issued for a motor vehicle that fails an initial inspection and a subsequent reinspection if the actual cost of maintenance already performed designed to bring the vehicle into compliance with clean air act standards in accordance with the inspection report is at least $300.00 adjusted in January of each year by the increase or decrease in the Detroit consumer price index rounded to the nearest whole dollar.

(2) The costs covered by vehicle warranty and the costs necessary to repair or replace any emission control equipment that has been removed, dismantled, tampered with, misfueled, or otherwise rendered inoperative shall not be considered in determining eligibility for a certificate of waiver pursuant to subsection (1).

(3) Owners of vehicles subject to a transient IM240 emission test may apply to the department for a certificate of waiver after failing an initial inspection and a subsequent reinspection even though the dollar limit stated in subsection (1) for the cost of maintenance already performed has not been met. The department shall perform a complete, documented physical and functional diagnosis and inspection. If the diagnosis and inspection shows that no additional emission-related repairs are needed, or that the vehicle presents prohibitive inspection problems or is inappropriate for inspection, the department may issue a certificate of waiver.

(4) Issuance of a certificate of waiver shall be conditioned upon meeting the criteria established by regulations promulgated by the United States environmental protection agency in 40 C.F.R. 51.360.

(5) A temporary certificate of waiver, valid for not more than 15 days, may be issued to a motor vehicle to allow time for necessary maintenance and reinspection. A temporary certificate of waiver may be issued not more than twice for the same motor vehicle.

Sec. 18. (1) The department, directly or by contract, shall implement continuing education programs to begin 6 months before the commencement of the public inspection program in a county. A continuing education program shall consist of a component designed to educate the general public about the vehicle inspection and maintenance program and a component to inform those who will perform maintenance requirements under this act.

(2) The department shall institute procedures and mechanisms to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the inspection and maintenance program. This shall include a challenge mechanism by which a vehicle owner can contest the results of an inspection. It shall include mechanisms for protecting whistleblowers and following up on complaints by the public or others involved in the process. It shall include a program to assist owners in obtaining warranty covered repairs for eligible vehicles that fail a test.

(3) The department shall evaluate, inspect, and provide quality assurance for the inspection and maintenance program established under this act to ensure proper and accurate emission inspection results. The department shall be responsible for issuance of certificates of waiver and time extensions.

(4) The department shall compile data and undertake studies necessary to evaluate the cost, effectiveness, and benefits of the motor vehicle inspection program. The department shall compile data on failure rate, compliance rate, the number of certificates issued, and other similar matters in accordance with 40 C.F.R. 51.365 and 51.366. The department shall make an annual report on the operation of the motor vehicle inspection program to the standing committees of the legislature that primarily address issues pertaining to public health or protection of the environment by January 1, 1995, and each year thereafter.

Sec. 19. A contractor shall not issue a certificate of compliance for a motor vehicle that has not been inspected and has not met or exceeded emission cut points established by the department in accordance with this act and the rules promulgated under this act.

Sec. 20. (1) An employee, owner, or operator of a public inspection station shall not furnish information about the name or other description of a repair facility or other place where maintenance may be obtained. The department shall develop guidelines for provision of this information in cooperation with the department of state, and shall provide the house and senate standing committees dealing with transportation matters with those guidelines before January 1, 1995.

(2) Each public inspection station shall furnish the following information upon failure of the vehicle to pass inspection:

(a) A written inspection report listing each reason that the vehicle failed the emissions inspection.

(b) A notice which states the following:

"A vehicle's failure to pass the emissions inspection may be related to a malfunction covered under warranty."

(3) Certificates of waiver shall be available at each public inspection station pursuant to section 16.

Sec. 21. A person shall not tamper with a motor vehicle that has been certified to comply with this act and the rules promulgated under this act so that the motor vehicle is no longer in compliance. For purposes of this act, tampering does not include the alteration of a motor vehicle by employees of the department for purposes of monitoring and enforcement of this act.

Sec. 22. A person shall not provide false information to a public inspection station or the department about estimated or actual repair costs or repairs needed to bring a motor vehicle into compliance. A person shall not claim an amount spent for repair if the repairs were not made or the amount not spent.

Sec. 23. (1) A person who violates section 19 or forges, counterfeits, or alters an inspection certificate or who knowingly possesses an unauthorized inspection certificate, is guilty of a misdemeanor, punishable by imprisonment for a term not to exceed 1 year or by a fine not to exceed $1,000.00. Each violation constitutes a separate offense.

(2) Except as otherwise provided in subsection (1), a person who violates section 20, 21, or 22 is guilty of a misdemeanor.

(3) A person who drives a motor vehicle in violation of this act or rules promulgated under this act is subject to a civil fine of not more than $500.00. Each violation constitutes a separate offense.

Sec. 26. This act shall not take effect unless House Bill No. 5016 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved 11:06 a.m. 11/13/93

Governor.

Filed with Secretary of State
on 11-13-93 at 11:43 a.m.