STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Rep. Alley

ENROLLED HOUSE BILL No. 5016

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; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts on a specific date.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "motor vehicle emissions testing 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) "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.

(2) "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.

(3) "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.

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

(5) "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.

(6) "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) "Fleet testing station" means a testing station that is authorized to conduct inspections on 10 or more vehicles owned or leased by 1 person.

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

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

(5) "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.

(6) "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, that has a gross vehicle weight rating of 10,000 pounds or less and which is required to be registered for use upon the public streets and highways of this state under 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.

(7) "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) "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.

(4) "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.

(5) "Test cycle" means a 12-month period corresponding with the expiration date for registration of the vehicle.

(6) "Testing station" means a facility for motor vehicle inspection as provided in this act.

Sec. 6. (1) Access to records of the department and the department of state shall be in accordance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Requests for access to records shall be in writing and shall identify the specific record.

(3) There shall be a reasonable charge for the reproduction and mailing of identifiable records.

Sec. 7. Not later than January 1, 1996, the department shall implement and administer a decentralized motor vehicle emissions inspection test and repair program in compliance with former section 172(b)(11)(B) of the clean air act in effect before November 15, 1990 in the counties of Wayne, Oakland, and Macomb. The inspection and maintenance program shall be carried out by licensed testing stations as authorized by the department.

Sec. 8. (1) The department may implement and administer only under 1 of the conditions set forth in subsection (2) a decentralized motor vehicle emissions inspection test and repair program designed to meet the performance standards for a motor vehicle emissions testing program as established by the United States environmental protection agency in 40 C.F.R. 51.352 in the counties of Wayne, Oakland, and Macomb, using bar 90 testing equipment, including a visual antitampering check, or an equivalent system approved by the United States environmental protection agency. This inspection and maintenance program, if implemented, shall be carried out by licensed testing stations as authorized by the department. The visual antitampering check described in this subsection includes 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 with a gross vehicle weight rating of 10,000 pounds or less.

(2) The decentralized test and repair program described in subsection (1) shall only be implemented under 1 of the following conditions:

(a) As a contingency measure included in the maintenance plan approved by the environmental protection agency as part of the redesignation as an ozone attainment area. The contingency measure shall include authority to expand the program to Washtenaw county in addition to the counties described in subsection (1) if other measures are not sufficient to meet the maintenance plan. 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.

(b) An application for redesignation as an ozone attainment area is approved by the environmental protection agency but a condition of that approval requires implementing the motor vehicle emissions testing program described in subsection (1) in order to comply with section 107(d)(3)(E) and section 182(b)(4) of the clean air act.

(c) An application for redesignation as an ozone attainment area is not approved by the environmental protection agency and the program described in subsection (1) is required to meet the requirements of section 182(b) of the clean air act. The program described in subsection (1) may be expanded to include Washtenaw county, and if necessary to meet the basic emissions inspection and maintenance program requirements of the clean air act, the department may expand the program to include St. Clair, Livingston, and Monroe counties in addition to the counties described in subsection (1) if other measures are not sufficient to meet the requirements of section 182(b) of the clean air act.

(d) The department may only exercise the contingency set forth in subdivision (c) if:

(*i*) The department notifies the legislature that the event set forth in subdivision (c) has occurred and that the contingency will be implemented after a period of 45 days.

(*ii*) The legislature fails to adopt any amendments to this act which would alter the requirements of this section within the 45-day period.

(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 section.

(4) Equipment and test procedures for the program described in subsection (1) shall meet the requirements of appendices A through D 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) The department, in consultation with the department of state and the department of natural resources, may promulgate rules for the administration of the inspection and maintenance program under this section or section 7, including, but not limited to:

(a) Standards for testing 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.

(6) 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 section or section 7 and the rules promulgated under this section or section 7 and for which the required certificate of compliance has not been obtained.

Sec. 9. (1) There is established a motor vehicle emissions testing 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 motor vehicle emissions inspections and for delinquency charges under this act and from any other source shall be deposited in the state treasury to the credit of the motor vehicle emissions testing program fund.

(2) The motor vehicle emissions inspection account is created in the motor vehicle emissions testing program fund. Money in this 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 testing program under this act, administration and oversight by the department and the independent third party organization, enforcement of the motor vehicle emissions testing program through the vehicle registration process by the department of state, gasoline inspection and testing, and other activities related to the motor vehicle emissions testing program.

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

(4) If any of the funds collected from the fee in section 12(1) for administration and oversight including reimbursement of independent third party organizations are appropriated or expended for any purposes other than those specifically listed in subsection (2), section 23(2), and section 35, the authority to collect fees granted under section 12(1) shall be suspended until the funds appropriated or expended for purposes other than those specifically listed in subsection (2), section 23(2), and section 35 are returned to the fund established in subsection (1).

Sec. 10. (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 1 test cycle.

(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 vehicle emission and maintenance program without a valid certificate of compliance or certificate of waiver.

Sec. 11. (1) A testing station shall not falsely represent that the motor vehicle has passed or failed an inspection or reinspection.

(2) A testing station shall not falsely represent repairs or falsely estimate the price for repairs that are necessary to allow a person to obtain a certificate of compliance or a certificate of waiver.

Sec. 12. (1) A testing station may charge a person a fee, not to exceed $13.00. Nothing in this act or the rules shall be construed as prohibiting a testing station from providing inspections for a fee of less than $13.00. However, the fee charged shall not be less than $3.00. Three dollars from the fee charged under this subsection shall be remitted by the testing station to the department of treasury as provided in subsection (7) and shall be used by the department for administration and oversight. One dollar from the $3.00 shall be used by the department to reimburse the independent third party organization pursuant to section 23. A testing station shall not make a separate charge for issuing a certificate of compliance, notice of failure, or certificate of waiver.

(2) A testing station shall provide 1 free reinspection of a motor vehicle if the motor vehicle failed a previous inspection performed by the testing station and if the motor vehicle is presented for reinspection within 90 days of the previous inspection, except that a testing station is not obligated to perform a free reinspection if the person presenting the motor vehicle for reinspection does not present the notice of failure previously issued by the testing station.

(3) A testing station that has performed repairs to bring into compliance a motor vehicle that has failed an inspection at another testing station within the previous 90 days, as evidenced by the notice of failure, shall provide to the person presenting the motor vehicle a free reinspection and shall provide a certificate of compliance for the motor vehicle if it passes the reinspection.

(4) A testing station shall not charge a fee to issue a certificate of compliance for a motor vehicle that has qualified for and received a low emission tune-up if the testing station performed the low emission tune-up on the motor vehicle.

(5) A testing station shall provide 1 free reinspection of a motor vehicle if a fee was charged by the testing station for an initial inspection of the motor vehicle that was not completed under any condition described in the rules.

(6) 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 annual inspection test cycle at a time set by the department.

(7) By the fifteenth day of each month, each testing station shall remit the amount of the fee required for administration and oversight under subsection (1) to the department of treasury for deposit in the motor vehicle emissions testing program fund.

Sec. 14. 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) A motor vehicle that has as its only fuel source compressed natural gas, diesel fuel, propane, electric power, or any other source as defined by rule promulgated by the department.

(d) A vehicle that is licensed as a historic vehicle 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.

(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 next annual inspection for the vehicle model year.

Sec. 15. (1) The motor vehicles subject to this act and the rules include the following:

(a) Each registered motor vehicle for the model years 1975 and later that is owned by a person whose permanent place of residence is in a county subject to this act.

(b) All motor vehicles for the model years 1975 and later that belong to a fleet and that are predominately garaged, operated, or maintained in a county subject to this act.

(2) A motor vehicle that is otherwise subject to this act and the rules under subsection (1) shall not be subject to this act and the rules if its registration is being renewed and it will not be subject to this act and the rules because of its model year when its currently valid registration expires.

(3) A vehicle identified on a certificate of title issued by the department of state as an assembled vehicle is not subject to this act and the rules.

(4) A motor vehicle shall not be subject to this act and the rules if its application for registration renewal is accompanied by both a memorandum of federal clean air act exemption issued pursuant to federal regulation and a certification by the applicant identifying the vehicle, and if the application for registration is filed with the department.

Sec. 16. Any 1 of the following shall be accepted by the department of state as evidence that a motor vehicle was purchased as a new motor vehicle within the previous 12 months:

(a) A registration or certificate of title indicating the motor vehicle is of a model year which has been offered for sale in this state for not more than 12 months.

(b) A record of the department of state indicating that the motor vehicle was purchased as new within the previous 12 months.

(c) A seller's statement to the buyer which indicates that the motor vehicle being sold is a new motor vehicle and which is dated within the previous 12 months.

(d) A manufacturer's statement of origin showing the first retail sale as being within the previous 12 months.

(e) A bill of sale from a manufacturer or a dealer franchised to sell new motor vehicles of that particular make which indicates that the motor vehicle being sold is new and which is dated within the previous 12 months.

Sec. 17. An application for a motor vehicle registration shall be accepted by the department of state as evidence of a motor vehicle owner's permanent place of residence.

Sec. 19. (1) A person shall not engage in the business of inspecting motor vehicles under this act unless the person is a motor vehicle repair facility registered pursuant to section 14 of the motor vehicle service and repair act, Act No. 300 of the Public Acts of 1974, being section 257.1314 of the Michigan Compiled Laws, and has received a license to operate a testing station from the department.

(2) A person shall not be licensed to operate a testing station unless the person has an established place of business where inspections are to be performed during regular business hours, where records required by this act and the rules promulgated pursuant to this act are to be maintained, and which is equipped with an instrument or instruments of a type which complies with and is capable of performing inspections of motor vehicles under this act.

(3) A person licensed as a testing station shall perform inspections under this act at the established place of business for which the person is licensed. A person shall inform the department immediately of a change in the address of an established place of business at which the person is licensed as a testing station.

(4) A person shall obtain a separate license and pay a separate fee for each established place of business at which a testing station is to be operated.

(5) A testing station may establish and operate mobile or temporary testing station locations if they meet all of the following conditions:

(a) The instrument used at the mobile or temporary location is capable of meeting the performance specifications for instruments set forth in rules promulgated pursuant to this act while operating in the mobile or temporary station environment.

(b) The owner of a motor vehicle inspected at the mobile or temporary location shall be provided with a free reinspection of the motor vehicle, at the established place of business of the testing station or at any mobile or temporary testing station location operated by the testing station.

(c) Personnel at the licensed established place of business location shall, at all times, know the location and hours of operation of the mobile or temporary testing station or stations.

(d) The records required by this act and the rules promulgated pursuant to this act relating to inspections performed and the instrument or instruments used at a mobile or temporary testing station shall be maintained at a single established place of business which is licensed as a testing station.

(e) The documents printed as required by the rules by an instrument used at a mobile or temporary testing station location shall contain the testing station number and the name, address, and telephone number of the testing station's established place of business.

(6) A testing station may use remote sensing devices as a complement to testing otherwise required by this act.

(7) A testing station shall not cause or permit an inspection of a motor vehicle to be performed by a person other than an emission inspector using an instrument of a type which complies with the rules promulgated pursuant to this act.

(8) A testing station shall display a valid testing station license issued by the department in a place and manner conspicuous to its customers.

Sec. 20. (1) Application for original and replacement testing station licenses shall be submitted on forms provided by the department.

(2) An applicant for a testing station license shall submit to the department a description of the business to be licensed, which shall include, in addition to other information required by this act and the rules, all of the following:

(a) The repair facility registration number issued to the applicant pursuant to the motor vehicle service and repair act, Act No. 300 of the Public Acts of 1974, being sections 257.1301 to 257.1340 of the Michigan Compiled Laws.

(b) The name of the business and the address of the business location for which a testing station license is being sought.

(c) The name and address of each owner of the business in the case of a sole proprietorship or a partnership and, in the case of a corporation, the name and address of each officer and director and of each owner of 25% or more of the corporation.

(d) The name and identification number issued by the department of each emission inspector employed by the applicant.

(e) A description, including the model and serial number, of each instrument to be used by the applicant to perform inspections or reinspections under this act and the rules promulgated pursuant to this act and the date the instrument was purchased by the applicant.

(f) The estimated capacity of the applicant to perform inspections.

(3) The fee for a testing station license shall be $50.00 and shall accompany the application for a license submitted to the department.

(4) A testing station license shall take effect on the date it is approved by the department and shall remain in effect until the act expires, the license is surrendered by the station, revoked or suspended by the department, or until the motor vehicle repair facility registration of the business has been revoked or suspended by the department of state, surrendered by the facility, or has expired without timely renewal.

(5) When a testing station license has expired by reason of surrender, revocation, or expiration of repair facility registration, the business shall not resume operation as a testing station until the repair facility registration has been reinstated and a new, original application for a testing station license has been received and approved by the department and a new license fee paid.

(6) When the repair facility registration has been suspended, the testing station may resume operation without a new application when the repair facility registration suspension has ended.

Sec. 21. (1) If the ownership of a testing station changes, a new original license and payment of a new license fee shall be required, and the station shall not operate until its application is approved by the department. For the purposes of this section, "change of ownership" means a change in the ownership of a station which is either a sole proprietorship or a partnership; the replacement of a sole proprietorship with a partnership, a corporation, or another sole proprietorship; the replacement of a partnership with a sole proprietorship, a corporation, or another partnership; or the replacement of a corporation with a sole proprietorship, a partnership, or another corporation.

(2) A corporation shall notify the department within 30 days of any change in ownership which involves the accumulation of 25% or more of the ownership by a person who did not previously own 25% or more of the corporation.

Sec. 22. (1) A testing station shall display at the established place of business an information sign which shall bear an identifying symbol developed by the department and be worded as follows: "OFFICIAL EMISSION TESTING STATION".

(2) The sign shall be displayed on the outside premises of the testing station so that it is clearly and readily visible and readable to persons in motor vehicles as they enter the testing station property.

(3) A testing station shall also conspicuously display the price charged by the station for an inspection preceded by a dollar sign and printed in Arabic numerals.

(4) A testing station shall maintain posted business hours during which time representatives of the independent third party required to make certifications of the equipment used by the testing station and the emission inspectors used by the testing station may conduct inspections of the station, instruments and records required by this act and the rules promulgated pursuant to this act, and the motor vehicle emission inspection procedures employed by the testing station.

(5) A testing station shall not hinder, obstruct, or otherwise prevent an inspection required by this act.

Sec. 23. (1) A testing station shall submit annually to the department evidence of certification of its testing equipment and emission inspectors by an independent third party organization. The certification shall provide that the testing equipment and emission inspectors meet the requirements of this act and the rules promulgated under this act and the requirements of the clean air act. If deficiencies were noted by the third party certifying organization, the testing station shall submit a written explanation of corrective action accepted by the third party organization with the certification.

(2) The department shall contract with the third party organization to establish a random inspection system for testing stations. Funds from the fee imposed pursuant to section 12 shall be used for this purpose.

Sec. 24. (1) A fleet owner or lessee shall not perform inspections under this act or the rules unless the fleet owner or lessee has received from the department a permit to operate a fleet testing station.

(2) A person shall not receive a permit to operate a fleet testing station unless the person has an established location where inspections are to be performed, where records required by this act and the rules are to be maintained, that is equipped with an instrument or instruments of a type that comply with this act or the rules, and that is capable of performing inspections of motor vehicles under this act and the rules promulgated pursuant to this act.

(3) A person with a permit to operate a fleet testing station shall perform inspections under this act and the rules only at the established location for which the person has the permit. A person shall inform the department immediately of a change in the address of the established location for which the person has a permit to operate a fleet testing station.

(4) A fleet testing station shall not cause or permit an inspection of a motor vehicle to be performed by a person other than an emission inspector using an instrument of a type that complies with the rules.

(5) Applications for original and replacement fleet testing station permits shall be submitted on forms provided by the department.

(6) An applicant for a fleet testing station shall submit to the department a description of the operation to be licensed, which shall include, in addition to other information required by this act and the rules, all of the following:

(a) The name of the business and the address of the location for which a fleet testing station permit is being sought.

(b) The name and address of each owner of the business in the case of a sole proprietorship or a partnership and, in the case of a corporation, the name and address of each officer and director and of each owner of 25% or more of the corporation.

(c) The name and identification number issued by the department of each emission inspector employed by the applicant.

(d) A description, including the model and serial number of each instrument to be used by the applicant to perform inspections or reinspections under this act and the rules, and the date the equipment was purchased by the applicant.

(e) A description of the fleet to be inspected, including the number and types of motor vehicles.

(f) A statement signed by the applicant certifying that the applicant maintains and repairs, on a regular basis, the fleet vehicles owned by the applicant.

(7) A fleet testing station permit shall take effect on the date it is approved by the department and shall expire 1 year from that date. A fleet testing station permit shall be renewed automatically, unless the fleet testing station informs the department not to renew it or unless the department has revoked the permit.

(8) A person shall obtain a separate permit for each location at which fleet inspections are performed.

(9) By the fifteenth day of each month, each fleet testing station shall remit $1.00 for each vehicle inspected during the preceding month to the department of treasury for deposit in the motor vehicle emissions testing program fund.

Sec. 25. (1) If the ownership of a fleet testing station changes, a new permit is required, and the fleet testing station shall not operate until its application for a new permit is approved by the department. For purposes of this section, "change of ownership" means a change in the ownership of a station that is a sole proprietorship or a partnership; the replacement of a sole proprietorship with a partnership, a corporation, or another sole proprietorship; the replacement of a partnership with a sole proprietorship, a corporation, or another partnership; or the replacement of a corporation with a sole proprietorship, a partnership, or another corporation.

(2) A corporation shall notify the department within 30 days of any change in ownership which involves the accumulation of 25% or more of the ownership by a person who did not previously own 25% or more of the corporation.

Sec. 26. A fleet testing station shall perform inspections under this act and the rules only upon its own fleet motor vehicles, unless separately licensed as a testing station.

Sec. 27. (1) A fleet testing station, its records, equipment required by this act and the rules, and the motor vehicle emission inspection procedures employed by the fleet testing station shall be open to inspection by an independent third party as otherwise required by this act.

(2) A fleet testing station shall not hinder, obstruct, or otherwise prevent an inspection required by this act.

Sec. 28. A fleet testing station shall not falsely represent that a motor vehicle has passed or failed an inspection or reinspection.

Sec. 29. A fleet testing station shall issue a certificate of compliance for a vehicle that has passed an inspection or reinspection or received a low emission tune-up.

Sec. 30. (1) A person shall not be required to make an appointment for a vehicle inspection.

(2) A testing station shall inspect and reinspect motor vehicles in accordance with this act and the rules promulgated under this act by the department. The 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 this act. If a certificate of compliance is not issued, the inspection station shall provide a written inspection report describing the reason for rejection.

Sec. 31. (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 standards in accordance with the inspection report is at least $200.00 adjusted in January of each year by the increase or decrease in the Detroit consumer price index and rounded off 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) Except for the program described in section 7, 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.

(4) A temporary certificate of waiver, valid for not more than 14 days, may be issued to the owner of a motor vehicle by the secretary of state to allow time for necessary maintenance and reinspection. The secretary of state may charge the fee permitted for a temporary registration under section 802(5) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.802 of the Michigan Compiled Laws.

Sec. 32. (1) A person shall not perform inspections under this act or the rules unless the person has received approval from the department as an emission inspector.

(2) Before a person shall be approved as an emission inspector, the person shall have passed an examination approved by the department which is designed to test the person's competency to perform inspections.

(3) A person who has failed an examination to obtain approval as an emission inspector may retake the examination when it is next offered.

(4) A person's approval by the department as an emission inspector shall take effect on the date it is issued by the department and shall expire upon surrender by the person or upon revocation by the department.

(5) The department, after notice and opportunity for a hearing, may deny, suspend, or revoke a person's approval as an emission inspector if the department finds that an applicant or an emission inspector has done any of the following:

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

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

(c) Improperly performed an instrument maintenance, recordkeeping, or inspection procedure required by the rules.

(d) Incompetently performed an inspection.

(e) Been denied certification by the independent third party responsible for certifications under this act.

(6) Instead of proceeding under subsection (5), or as a means of settling a matter pursuant under subsection (5), the department may do any of the following:

(a) Enter into an assurance of discontinuance with an applicant or an emission inspector.

(b) Enter into a probation agreement with an applicant or an emission inspector.

(c) Enter into a suspension, revocation, or denial agreement with an applicant or an emission inspector.

(d) Require an applicant or an emission inspector to take training or an examination, or both.

Sec. 33. Unless the person is licensed as a fleet testing station, a person who owns a motor vehicle required to be inspected under this act and the rules shall have the motor vehicle inspected and shall obtain a certificate of compliance or a waiver only at a testing station licensed under this act and the rules.

Sec. 34. The department may issue a certificate of compliance for a motor vehicle when the department makes a determination that the motor vehicle complies with the requirements of this act and the rules. The department shall establish a system for selecting which motor vehicles qualify for the department's determination as to compliance.

Sec. 35. (1) 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.

(2) The department shall provide quality assurance for the inspection and maintenance program established under this act through certification of competency by a third party to ensure proper and accurate emission inspection results. The third party shall each year certify the testing equipment and the emission inspectors employed by a testing station.

(3) 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. 36. A testing station or a fleet testing station 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. 37. (1) An employee, owner, or operator of a public inspection station shall not furnish information, except information provided by the state or otherwise required by this act, about the name or other description of a repair facility or other place where maintenance may be obtained.

(2) Each testing 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 31.

Sec. 38. 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. 39. 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. 40. (1) A person who violates section 36 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 37, 38, or 39 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. 40a. Funds remaining in the vehicle emissions inspection and maintenance fund created by former Act No. 83 of the Public Acts of 1980 shall be transferred on January 1, 1996 to the motor vehicle emissions testing program fund created in this act. These funds shall be available for appropriation to the department for start-up costs to implement the motor vehicle emissions testing program in this act, to conduct a public information program to educate the general public about requirements of this act, and for other activities related to the motor vehicle emissions testing program.

Sec. 41. Act No. 83 of the Public Acts of 1980, being sections 257.1051 to 257.1076 of the Michigan Compiled Laws, is repealed January 1, 1996.

Sec. 42. This act shall not take effect unless House Bill No. 4165 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 11:02 A.M. 11/13/93

Governor.

Filed with Secretary of State
on 11-13-93 at 11:37 a.m.