

ASSEMBLY BILL

No. 2063

Introduced by Assembly Member Parra

February 19, 2008

An act to amend Sections 44003 and 44011 of, and to repeal Section 44011.1 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2063, as introduced, Parra. Smog check program: biennial inspection.

(1) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of motor vehicles upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Violations of smog check requirements are a crime.

This bill would subject all vehicles registered within the state to biennial inspection, except as specifically exempted, regardless of where in the state the vehicle is registered. By requiring additional owners of vehicles to be subject to smog tests, this bill would expand the scope of a crime and therefore create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44003 of the Health and Safety Code is
2 amended to read:

3 44003. (a) (1) An enhanced motor vehicle inspection and
4 maintenance program is established in each urbanized area of the
5 state, any part of which is classified by the Environmental
6 Protection Agency as a serious, severe, or extreme nonattainment
7 area for ozone or a moderate or serious nonattainment area for
8 carbon monoxide with a design value greater than 12.7 ppm, and
9 in other areas of the state as provided in this chapter.

10 (2) The enhanced motor vehicle inspection and maintenance
11 program established pursuant to paragraph (1) shall be assessed
12 jointly by the department and the state board periodically to
13 determine whether changes in the program may be warranted. On
14 or before January 1, 2003, the department and the state board shall
15 jointly issue a report to the Legislature based on those periodic
16 assessments, recommending any modifications to the enhanced
17 program to improve its operations and lessen its impact on
18 consumers while still achieving the necessary emission reductions
19 to attain air quality standards. The report shall include a review of
20 any program proposed pursuant to Section 15 of Chapter 803 of
21 the Statutes of 1997.

22 (3) A basic vehicle inspection and maintenance program shall
23 be continued in all other areas of the state ~~where a program was~~
24 ~~in existence under this chapter as of the effective date of this~~
25 ~~paragraph.~~

26 (b) The department may prescribe different test procedures and
27 equipment requirements for those areas described in subdivision
28 (a). Program components shall be operated in all program areas
29 unless otherwise indicated, as determined by the department. ~~In~~
30 ~~those areas where the biennial program is not implemented and~~
31 ~~smog check inspections are required to complete the requirements~~
32 ~~set forth in Sections 4000.1 and 4000.2 of the Vehicle Code,~~
33 ~~program elements that apply in basic areas, including test~~
34 ~~equipment requirements for smog check stations, shall apply.~~

35 (c) (1) Districts classified as attainment areas may request the
36 department to implement all or part of the program elements
37 defined in this chapter. However, the department shall not
38 implement the program established by Section 44010.5 in any area

1 other than an urbanized area, any part of which is classified by the
2 Environmental Protection Agency as a serious, severe, or extreme
3 nonattainment area for ozone or a moderate or serious
4 nonattainment area for carbon monoxide with a design value greater
5 than 12.7 ppm.

6 (2) Districts that include areas classified as basic program
7 nonattainment areas pursuant to subdivision (a) may, except as
8 provided in paragraph (1), request the implementation in those
9 areas of test procedures and equipment required for enhanced
10 program areas and any other program requirement specified for
11 enhanced program areas.

12 SEC. 2. Section 44011 of the Health and Safety Code, as
13 amended by Section 2 of Chapter 739 of the Statutes of 2007, is
14 amended to read:

15 44011. (a) All motor vehicles powered by internal combustion
16 engines that are registered within ~~an area designated for program~~
17 ~~coverage~~ *the state* shall be required biennially to obtain a certificate
18 of compliance or noncompliance, except for all of the following:

19 (1) Every motorcycle, and every diesel-powered vehicle, until
20 the department, pursuant to Section 44012, implements test
21 procedures applicable to motorcycles or to diesel-powered vehicles,
22 or both.

23 (2) Any motor vehicle that has been issued a certificate of
24 compliance or noncompliance or a repair cost waiver upon a change
25 of ownership or initial registration in this state during the preceding
26 six months.

27 (3) Any motor vehicle manufactured prior to the 1976
28 model-year.

29 (4) (A) Except as provided in subparagraph (B), any motor
30 vehicle four or less model-years old.

31 (B) Beginning January 1, 2005, any motor vehicle six or less
32 model-years old, unless the state board finds that providing an
33 exception for these vehicles will prohibit the state from meeting
34 the requirements of Section 176(c) of the federal Clean Air Act
35 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with
36 respect to the state implementation plan required by the federal
37 Clean Air Act.

38 (C) Any motor vehicle excepted by this paragraph shall be
39 subject to testing and to certification requirements as determined
40 by the department, if any of the following apply:

- 1 (i) The department determines through remote sensing activities
- 2 or other means that there is a substantial probability that the vehicle
- 3 has a tampered emission control system or would fail for other
- 4 cause a smog check test as specified in Section 44012.
- 5 (ii) The vehicle was previously registered outside this state and
- 6 is undergoing initial registration in this state.
- 7 (iii) The vehicle is being registered as a specially constructed
- 8 vehicle.
- 9 (iv) The vehicle has been selected for testing pursuant to Section
- 10 44014.7 or any other provision of this chapter authorizing
- 11 out-of-cycle testing.
- 12 (5) In addition to the vehicles exempted pursuant to paragraph
- 13 (4), any motor vehicle or class of motor vehicles exempted pursuant
- 14 to subdivision (b) of Section 44024.5. It is the intent of the
- 15 Legislature that the department, pursuant to the authority granted
- 16 by this paragraph, exempt at least 15 percent of the lowest emitting
- 17 motor vehicles from the biennial smog check inspection.
- 18 (6) Any motor vehicle that the department determines would
- 19 present prohibitive inspection or repair problems.
- 20 (7) Any vehicle registered to the owner of a fleet licensed
- 21 pursuant to Section 44020 if the vehicle is garaged exclusively
- 22 outside the area included in program coverage, and is not primarily
- 23 operated inside the area included in program coverage.
- 24 (b) Vehicles designated for program coverage in enhanced areas
- 25 shall be required to obtain inspections from appropriate smog
- 26 check stations operating in enhanced areas.
- 27 (c) For purposes of subdivision (a), any collector motor vehicle,
- 28 as defined in Section 259 of the Vehicle Code, is exempt from
- 29 those portions of the test required by subdivision (f) of Section
- 30 44012 if the collector motor vehicle meets all of the following
- 31 criteria:
- 32 (1) Submission of proof that the motor vehicle is insured as a
- 33 collector motor vehicle, as shall be required by regulation of the
- 34 bureau.
- 35 (2) The motor vehicle is at least 35 model-years old.
- 36 (3) The motor vehicle complies with the exhaust emissions
- 37 standards for that motor vehicle's class and model-year as
- 38 prescribed by the department, and the motor vehicle passes a
- 39 functional inspection of the fuel cap and a visual inspection for
- 40 liquid fuel leaks.

1 (d) For the purposes of this section, the phrase “registered within
2 the state” includes any vehicle registered pursuant to the Vehicle
3 Code in this state even if the mailing address or residence address
4 of the registered owner is not located within this state or the
5 address at which the vehicle is garaged is not located within this
6 state.

7 ~~(d)~~

8 (e) This section shall remain in effect only until January 1, 2010,
9 and as of that date is repealed.

10 SEC. 3. Section 44011 of the Health and Safety Code, as added
11 by Section 3 of Chapter 739 of the Statutes of 2007, is amended
12 to read:

13 44011. (a) All motor vehicles powered by internal combustion
14 engines that are registered within ~~an area designated for program~~
15 ~~coverage~~ the state shall be required biennially to obtain a certificate
16 of compliance or noncompliance, except for the following:

17 (1) All motorcycles until the department, pursuant to Section
18 44012, implements test procedures applicable to motorcycles.

19 (2) All motor vehicles that have been issued a certificate of
20 compliance or noncompliance or a repair cost waiver upon a change
21 of ownership or initial registration in this state during the preceding
22 six months.

23 (3) All motor vehicles manufactured prior to the 1976
24 model-year.

25 (4) (A) Except as provided in subparagraph (B), all motor
26 vehicles four or less model-years old.

27 (B) Beginning January 1, 2005, all motor vehicles six or less
28 model-years old, unless the state board finds that providing an
29 exception for these vehicles will prohibit the state from meeting
30 the requirements of Section 176(c) of the federal Clean Air Act
31 (42 U.S.C. Sec. 7401 et seq.) or the state’s commitments with
32 respect to the state implementation plan required by the federal
33 Clean Air Act.

34 (C) All motor vehicles excepted by this paragraph shall be
35 subject to testing and to certification requirements as determined
36 by the department, if any of the following apply:

37 (i) The department determines through remote sensing activities
38 or other means that there is a substantial probability that the vehicle
39 has a tampered emission control system or would fail for other
40 cause a smog check test as specified in Section 44012.

1 (ii) The vehicle was previously registered outside this state and
2 is undergoing initial registration in this state.

3 (iii) The vehicle is being registered as a specially constructed
4 vehicle.

5 (iv) The vehicle has been selected for testing pursuant to Section
6 44014.7 or any other provision of this chapter authorizing
7 out-of-cycle testing.

8 (D) This paragraph does not apply to diesel-powered vehicles.

9 (5) In addition to the vehicles exempted pursuant to paragraph
10 (4), any motor vehicle or class of motor vehicles exempted pursuant
11 to subdivision (b) of Section 44024.5. It is the intent of the
12 Legislature that the department, pursuant to the authority granted
13 by this paragraph, exempt at least 15 percent of the lowest emitting
14 motor vehicles from the biennial smog check inspection.

15 (6) All motor vehicles that the department determines would
16 present prohibitive inspection or repair problems.

17 (7) Any vehicle registered to the owner of a fleet licensed
18 pursuant to Section 44020 if the vehicle is garaged exclusively
19 outside the area included in program coverage, and is not primarily
20 operated inside the area included in program coverage.

21 (8) (A) All diesel-powered vehicles manufactured prior to the
22 1998 model-year.

23 (B) All diesel-powered vehicles that have a gross vehicle weight
24 rating of 8,501 to 10,000 pounds, inclusive, until the department,
25 in consultation with the state board, pursuant to Section 44012,
26 implements test procedures applicable to these vehicles.

27 (C) All diesel-powered vehicles that have a gross vehicle weight
28 rating from 10,001 pounds to 13,999 pounds, inclusive, until the
29 state board and the Department of Motor Vehicles determine the
30 best method for identifying these vehicles, and until the department,
31 in consultation with the state board, pursuant to Section 44012,
32 implements test procedures applicable to these vehicles.

33 (D) All diesel-powered vehicles that have a gross vehicle weight
34 rating of 14,000 pounds or greater.

35 (b) Vehicles designated for program coverage in enhanced areas
36 shall be required to obtain inspections from appropriate smog
37 check stations operating in enhanced areas.

38 (c) For purposes of subdivision (a), a collector motor vehicle,
39 as defined in Section 259 of the Vehicle Code, is exempt from
40 those portions of the test required by subdivision (f) of Section

1 44012 if the collector motor vehicle meets all of the following
2 criteria:

3 (1) Submission of proof that the motor vehicle is insured as a
4 collector motor vehicle, as shall be required by regulation of the
5 bureau.

6 (2) The motor vehicle is at least 35 model-years old.

7 (3) The motor vehicle complies with the exhaust emissions
8 standards for that motor vehicle's class and model-year as
9 prescribed by the department, and the motor vehicle passes a
10 functional inspection of the fuel cap and a visual inspection for
11 liquid fuel leaks.

12 *(d) For the purposes of this section, the phrase "registered*
13 *within the state" includes any vehicle registered pursuant to the*
14 *Vehicle Code in this state even if the mailing address or residence*
15 *address of the registered owner is not located within this state or*
16 *the address at which the vehicle is garaged is not located within*
17 *this state.*

18 ~~(d)~~

19 (e) This section shall become operative on January 1, 2010.

20 SEC. 4. Section 44011.1 of the Health and Safety Code is
21 repealed.

22 ~~44011.1. For purposes of Section 44011, the term "registered~~
23 ~~within an area designated for program coverage" includes any~~
24 ~~vehicle registered pursuant to the Vehicle Code in this state when~~
25 ~~the registered owner's mailing or residence address is not located~~
26 ~~within this state, or when the address at which the vehicle is~~
27 ~~garaged is not located within this state.~~

28 SEC. 5. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.