

Senate Bill No. 435

CHAPTER 407

An act to add Section 27202.1 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 28, 2010. Filed with
Secretary of State September 28, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 435, Pavley. Vehicles: pollution control devices.

(1) Existing federal regulations require a motorcycle manufactured on and after January 1, 1983, and exhaust emission systems for those motorcycles, to meet specified noise emissions standards and require that a label be affixed onto the motorcycle or exhaust emission system indicating that the motorcycle or exhaust emission system meets the noise emissions standards.

This bill would make it a crime for a person to park, use, or operate a motorcycle, registered in the state, that is manufactured on and after January 1, 2013, or a motorcycle, registered in the state, with aftermarket exhaust system equipment that is manufactured on or after January 1, 2013, that does not have the above label, and would make a violation of this provision punishable by a specified fine, thereby imposing a state-mandated local program by creating a new crime. The bill would require the person to whom a notice to appear is issued, or against whom a complaint is filed, for the above violation, to provide proof of correction. The bill would authorize a court to dismiss the penalty imposed for a first violation if the person produces proof of correction to the satisfaction of the court.

(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.

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

SECTION 1. Section 27202.1 is added to the Vehicle Code, to read:

27202.1. (a) Notwithstanding any other law, a person shall not park, use, or operate a motorcycle, registered in the State of California, that does not bear the required applicable federal Environmental Protection Agency exhaust system label pursuant to Subparts D (commencing with Section 205.150) and E (commencing with Section 205.164) of Part 205 of Title 40 of the Code of Federal Regulations. A violation of this section shall be considered a mechanical violation and a peace officer shall not stop a

motorcycle solely on a suspicion of a violation of this section. A peace officer shall cite a violation of this section as a secondary infraction.

(b) A violation of this section is punishable as follows:

(1) For a first conviction, by a fine of not less than fifty dollars (\$50), nor more than one hundred dollars (\$100).

(2) For a second or subsequent conviction, by a fine of not less than one hundred dollars (\$100), nor more than two hundred fifty dollars (\$250).

(c) (1) The notice to appear issued or complaint filed for a violation of this section shall require that the person to whom the notice to appear is issued, or against whom the complaint is filed, produce proof of correction pursuant to Section 40150.

(2) Upon producing proof of correction to the satisfaction of the court, the court may dismiss the penalty imposed pursuant to subdivision (b) for a first violation of this section.

(d) (1) This section is applicable to a person operating a motorcycle that is manufactured on or after January 1, 2013, or a motorcycle with aftermarket exhaust system equipment that is manufactured on or after January 1, 2013.

(2) Penalties imposed pursuant to this section are in addition to penalties imposed pursuant to any other applicable laws or regulations.

(3) This section does not supersede, negate, or otherwise alter any other applicable laws or regulations.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.