

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 487 (Delegate Buckel, *et al.*)

Environment and Transportation and
Economic Matters

Environment – Low Emissions Vehicle Program – Prohibition (Affordable
Emissions Standards Act of 2023)

This emergency bill prohibits the Maryland Department of the Environment (MDE) from adopting regulations to implement the California Air Resources Board (CARB) Advanced Clean Cars II regulation or any other regulation relating to new motor vehicle emissions standards and compliance requirements that are subsequently adopted by CARB unless (1) MDE conducts specified analyses in consultation with the Motor Vehicle Administration (MVA) and the Public Service Commission (PSC) and submits the analyses to the General Assembly and (2) the General Assembly passes legislation to authorize the adoption of the regulation.

Fiscal Summary

State Effect: No effect assumed in FY 2023. General fund expenditures increase by \$300,000 in FY 2024 only for contractual costs to conduct the required analyses; similar costs could be incurred in future years if additional analyses are conducted, as discussed below. State expenditures may be further affected to the extent the State no longer participates in California’s Clean Car Program (see the Additional Comments section below). State revenues are not directly affected.

Local Effect: Local government expenditures and operations may be affected to the extent the State no longer participates in California’s Clean Car Program (see the Additional Comments section below). Local revenues are not affected.

Small Business Effect: Potential meaningful. (See the Additional Comments section below.)

Analysis

Bill Summary: MDE may not adopt regulations to implement the specified CARB regulations unless (1) MDE, in consultation with MVA, prepares an economic impact analysis (including an analysis of the impact on consumers and small businesses) and a budgetary analysis (including the fiscal impact on the State's budget); (2) MDE, in consultation with PSC, prepares an analysis of whether the State's electric grid is capable of accommodating the additional load of vehicle electrification; (3) MDE submits those analyses to the General Assembly; and (4) the General Assembly passes legislation to authorize the adoption of the regulation.

Current Law: Pursuant to the federal Clean Air Act (CAA), vehicles sold in the United States must be certified under one of two certification programs: (1) the federal program (Tier 2); or (2) the California program (the Clean Car Program). Section 177 of the CAA Amendments of 1990 provides states the ability to adopt the California program in lieu of the federal program as long as the adopted state program is *identical* to the California program and the state allows two model years lead time from adoption to implementation.

The Maryland Clean Cars Act of 2007 (Chapters 111 and 112) requires MDE to adopt regulations implementing the California Clean Car Program (also referred to as the California Low Emissions Vehicle Program, or CAL LEV) in Maryland. Maryland's implementing regulations adopted, through incorporation by reference in COMAR 26.11.34.02, the applicable California regulations. The CAL LEV program is a dynamic, changing program in which many of the relevant California regulations are continuously updated. To retain California's standards, Maryland must remain consistent with its regulations, which means when California updates its regulations, Maryland must reflect those changes by amending State regulations. Of note, on August 25, 2022, CARB adopted the Advanced Clean Cars II regulation requiring that all new cars and light trucks sold in California be zero emission vehicles, including a certain percentage of plug-in hybrid electric vehicles, by 2035.

State Expenditures: General fund expenditures for MDE increase by \$300,000 in fiscal 2024 to hire contractual assistance to complete the additional analyses required under the bill relating to the most recent CAL LEV regulation adopted by CARB. The information and assumptions used in calculating the estimate are stated below:

- current law requires MDE to adopt regulations implementing CAL LEV, so MDE must conduct the required analyses under the bill;
- although MDE already conducts similar analyses to those required under the bill when promulgating regulations, the analyses under the bill are more robust and go beyond the typical scope of analyses that are currently conducted;

- MDE staff does not have the resources or expert knowledge to perform the required analyses and needs to engage the services of outside technical and economic experts;
- MDE takes the lead on performing the required analyses; and
- MDE incurs the contractual costs in fiscal 2024, despite the bill’s emergency status.

MVA and PSC both advise they can consult with MDE with existing budgeted staff and resources. PSC notes that the commission is working on a general system planning study, referred to as the “electrification study,” pursuant to requirements under the Climate Solutions Now Act (Chapter 38 of 2022). Part of that study includes an assessment of the grid impacts of vehicle electrification and a scenario that models the potential implementation of the CARB Advanced Clean Cars II regulation.

For purposes of this analysis, it is assumed that no additional analyses are required during the five-year period covered by this fiscal and policy note. However, to the extent CARB adopts additional CAL LEV regulations in the future, costs increase in fiscal years in which MDE must conduct the required analyses.

Additional Comments: Under the bill, to the extent the General Assembly does not enact legislation to authorize the adoption of regulations implementing the CARB Advanced Clean Cars II regulation, Maryland would effectively need to leave CAL LEV and rejoin the federal program (since states must be covered by one or the other program). MDE notes that if this occurs, Maryland may face additional legal hurdles, which could cause uncertainty and affect expenditures for affected parties, including State agencies, local governments, and small businesses. Participation in CAL LEV is currently part of Maryland’s federally approved State Implementation Plan to achieve the National Ambient Air Quality Standards for ozone under CAA (42 USC § 7410(l)). MDE advises that a provision of this, which is commonly referred to as an anti-backsliding provision, may prevent the State from leaving CAL LEV unless equivalent emissions reductions could be demonstrated under an alternate plan approved by the U.S. Environmental Protection Agency. Any impacts related to the State leaving CAL LEV could be meaningful. However, without additional information, the Department of Legislative Services cannot provide a more detailed analysis at this time.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Maryland Department of Transportation; Public Service Commission; California Air Resources Board; U.S. Environmental Protection Agency; Department of Legislative Services

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Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510