



The Maryland Department of the Environment
Secretary Serena McIlwain

Senate Bill 1063

Environment – Advanced Clean Cars II Program – Application and Enforcement

Position: Oppose
Committee: Education, Energy, and Environment
Date: March 5, 2024
From: Hadley Anthony

The Maryland Department of the Environment (MDE) **OPPOSES** SB 1063.

Bill Summary

Senate Bill 1063 would prohibit MDE from adopting the California Advanced Clean Cars II (ACC II) regulations prior to model year (MY) 2030. MDE would also be prohibited from applying certain provisions of law governing enforcement and penalties with respect to motor vehicle manufacturers for not meeting the ACC II requirements.

Position Rationale

Delaying the ACC II program until MY 2030 would have negative consequences for the State of Maryland and vehicle manufacturers. The ACC II's MY zero-emission vehicle (ZEV) percentage requirements cannot be altered by Maryland as this is a mandate by the U.S. Environmental Protection Agency (EPA). If ACC II implementation is pushed to 2030, the manufacturers will have to comply with the 2030 requirements without the gradual ramp up currently provided in the earlier years. The ZEV program flexibilities begin to phase out as the MYs progress and further implementation delays will mean that manufacturers are unable to take advantage of the flexibilities as designed.

Under the Maryland Clean Cars Act of 2007, Maryland is required to adopt Advanced Clean Cars I (ACC I) and ACC II. Maryland has been implementing the current ACC I regulations since MY 2011. The function of ACC II is to keep reducing vehicle costs and expanding model availability by deploying ZEV technology at a larger scale. Additional gaps in Maryland's participation in ACC II would mean manufacturers will prioritize ZEV sales in the other 14 states that adopted the program, setting Maryland back on our clean energy, clean air, and climate change goals, and losing the significant benefits those vehicles provide to Marylanders. Broad adoption of the multistate ACC II also encourages stronger Federal standards which would further drive manufacturer investment in technology and supply chains, benefiting consumers who enjoy lower vehicle prices, fuel savings, and clean air.

Electric vehicle shares are growing rapidly in Maryland, with roughly 50% year-over-year growth in registrations in the last few years. MDE is on track to achieve the new ACC II goals as model availability continues to expand and prices continue to come down. Manufacturers are currently over-complying with the ACC I program and would bring extra credits from that over-compliance into the new program that can be used to ease into the new requirements.

The ACC II program is an integral component of Maryland's comprehensive, federal air quality plan or State Implementation Plan (SIP). By exiting ACC II, Maryland would revert back to the federal emissions program from MY 2026 - 2030, thereby likely losing reductions in our SIP that have to be made up for by other reductions elsewhere. ACC II is also a critical strategy in MDE's recently released "*Maryland's Climate Pollution Reduction Plan*" that is needed to significantly increase the number of ZEVs operating on Maryland's roadways and help us meet our climate goals. Of all of the programs Maryland has adopted, the ACC II program has the highest estimated future greenhouse gas reduction impact.

The proposed bill would also eliminate MDE's ability to enforce the ACC II program regulations. MDE needs enforcement authority to ensure the environmental and health protections of all its regulations are realized. MDE has broad enforcement discretion as it relates to enforcing penalties for non-compliance with the ACC II ZEV requirement. MDE, with all enforcement actions, follows its enforcement process laid out in state law. The ACC II program has regulatory flexibility that helps manufacturer compliance with the program without triggering enforcement processes. Flexibilities include a variety of different credits (early compliance, pooled vehicles, historic credits, and environmental justice credits) that can be used along with the ability to trade excess credits with other manufacturers that need credits. Finally, a manufacturer has three MYs to make-up any shortfalls that would trigger non-compliance.

It is important to emphasize that neither Maryland nor any other Clean Cars state has ever had to assess a financial penalty for non-compliance with the ZEV requirements in the current ACC I program that MDE has been implementing since MY 2011.

For the reasons detailed above, MDE urges an **UNFAVORABLE** report for SB 1063.