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By: ~~Delegate Morhaim~~ Delegates Morhaim, Finifter, Zirkin, Billings,  
Boutin, Sher, Oaks, Nathan-Pulliam, Hubbard, Stern, and McHale

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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Diesel Vehicle Emissions Control Program**

3 FOR the purpose of requiring the Secretary of the Environment, the Secretary of the  
4 State Police, and the Secretary of Transportation to jointly establish by  
5 regulation a Diesel Vehicle Emissions Control Program; ~~providing for certain~~  
6 ~~finer collected for certain violations to be remitted to the Department of~~  
7 ~~Transportation and credited to the Transportation Trust Fund under certain~~  
8 ~~circumstances~~; providing for the admissibility of certain evidence in certain  
9 court proceedings; establishing certain prima facie evidence of certain emissions  
10 standards under certain circumstances; providing for the payment of certain  
11 expenses of the Commercial Vehicle Enforcement Division of the Department of  
12 State Police under certain circumstances; requiring the Secretary of the  
13 Environment, the Secretary of the State Police, and the Secretary of  
14 Transportation to jointly adopt regulations to implement, administer, regulate,  
15 and enforce certain provisions of law under certain circumstances; requiring  
16 certain regulations to establish certain requirements for certain emissions  
17 standards, emissions tests, emissions test equipment, emissions test procedures,  
18 and certain circumstances under which a test may be performed,~~and providing~~  
19 ~~an opportunity to administratively appeal certain findings under certain~~  
20 ~~circumstances~~; establishing certain consent for and obligation to submit to  
21 emissions testing under certain circumstances; establishing certain penalties;  
22 ~~requiring an opportunity to repair a certain diesel vehicle under certain~~  
23 ~~circumstances or submit to a certain retest under certain circumstances to~~  
24 ~~reduce certain penalties under certain circumstances~~ establishing that a certain  
25 order or a certain notice shall be issued to a certain driver if a certain diesel  
26 vehicle fails an emissions test; requiring the repair and retest of a certain diesel  
27 vehicle under certain circumstances; providing for the suspension of the

1 registration of a certain diesel vehicle under certain circumstances; providing  
 2 notice of a certain violation to the Federal Highway Administration of the  
 3 United States Department of Transportation under certain circumstances;  
 4 defining certain terms; providing for a delayed effective date; and generally  
 5 relating to certain diesel vehicle emissions standards, testing, and enforcement  
 6 under certain circumstances.

7 ~~BY repealing and reenacting, with amendments,~~  
 8 ~~Article - Courts and Judicial Proceedings~~  
 9 ~~Section 7-302(b)~~  
 10 ~~Annotated Code of Maryland~~  
 11 ~~(1998 Replacement Volume)~~

12 BY adding to  
 13 Article - Courts and Judicial Proceedings  
 14 Section 10-312  
 15 Annotated Code of Maryland  
 16 (1998 Replacement Volume)

17 BY repealing and reenacting, with amendments,  
 18 Article - Transportation  
 19 Section 12-118(b)  
 20 Annotated Code of Maryland  
 21 (1998 Replacement Volume and 1998 Supplement)

22 BY adding to  
 23 Article - Transportation  
 24 Section 23-401 through 23-404, inclusive, to be under the new subtitle "Subtitle  
 25 4. Diesel Vehicle Emissions Control Program"  
 26 Annotated Code of Maryland  
 27 (1998 Replacement Volume and 1998 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 29 MARYLAND, That the Laws of Maryland read as follows:

30 **Article - Courts and Judicial Proceedings**

31 ~~7-302.~~

32 ~~(b) (1) If a parking or impounding fine, penalty, or forfeiture, or a fine,~~  
 33 ~~penalty, or forfeiture relating to violation of housing, building, fire, health, or~~  
 34 ~~sanitation codes, or a Mass Transit Fare Payment Statute, or a fine or penalty~~  
 35 ~~relating to failure to pay the prescribed toll at a highway or vehicular crossing is~~  
 36 ~~collected by the District Court pursuant to a local ordinance, law, or regulation of a~~  
 37 ~~political subdivision or municipality, or pursuant to a regulation of an agency of State~~  
 38 ~~government authorized to regulate parking of motor vehicles, or pursuant to a statute~~

1 ~~pertaining to the payment of mass transit fares, or pursuant to a statute pertaining to~~  
 2 ~~the failure to pay tolls, it shall be remitted to the respective local government, or to~~  
 3 ~~the State agency.~~

4 ~~(2) ANY FINE COLLECTED UNDER TITLE 23, SUBTITLE 4 OF THE~~  
 5 ~~TRANSPORTATION ARTICLE FROM A VIOLATION RELATING TO DIESEL EMISSIONS~~  
 6 ~~SHALL BE REMITTED TO THE DEPARTMENT OF TRANSPORTATION AND CREDITED TO~~  
 7 ~~THE TRANSPORTATION TRUST FUND.~~

8 10-312.

9 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN A PROSECUTION FOR A  
 10 DIESEL EMISSIONS STANDARD VIOLATION UNDER TITLE 23, SUBTITLE 4 OF THE  
 11 TRANSPORTATION ARTICLE, EMISSIONS TEST RESULTS FROM EMISSIONS TEST  
 12 EQUIPMENT AS DESCRIBED IN § 23-402 OF THE TRANSPORTATION ARTICLE ARE  
 13 ADMISSIBLE AT TRIAL IN ANY COURT WITH JURISDICTION OVER THE PROCEEDING  
 14 IN THE STATE.

15 (B) IF AT THE TIME OF TESTING, A DIESEL VEHICLE FAILS TO MEET THE  
 16 EMISSIONS STANDARD ESTABLISHED UNDER TITLE 23, SUBTITLE 4 OF THE  
 17 TRANSPORTATION ARTICLE, THE FAILURE TO MEET THE ESTABLISHED EMISSIONS  
 18 STANDARD SHALL BE PRIMA FACIE EVIDENCE THAT THE OPERATOR OF THE DIESEL  
 19 VEHICLE VIOLATED THE PROVISIONS OF TITLE 23, SUBTITLE 4 OF THE  
 20 TRANSPORTATION ARTICLE.

21 **Article - Transportation**

22 12-118.

23 (b) Out of the money remitted to the State Comptroller under the Maryland  
 24 Vehicle Law, the State Comptroller shall:

25 (1) Pay or retain enough to pay all refunds of taxes or fees provided for in  
 26 the Maryland Vehicle Law;

27 (2) Credit to the Gasoline and Motor Vehicle Revenue Account of the  
 28 Transportation Trust Fund the revenues specified in § 8-402 of this article, after  
 29 retaining enough to pay:

30 (i) The salaries and other expenses of the State Highway  
 31 Administration in enforcing Title 24 of this article;

32 (ii) The salaries and other expenses of the Commercial Vehicle  
 33 Enforcement Division of the Department of State Police as approved by the  
 34 Department in enforcing TITLE 23, SUBTITLE 4 OF THIS ARTICLE, Title 24 of this  
 35 article, the provisions of the Tax - General Article on the motor carrier tax, and the  
 36 provisions of Title 10 of the Business Regulation Article on motor fuel fraud and  
 37 motor fuel tax fraud;

1 (iii) Funds required, in addition to the funding provided in § 13-804,  
 2 for the salaries and other expenses of the Automotive Safety Enforcement Division of  
 3 the Department of State Police as approved by the Department in enforcing Title 23 of  
 4 this article and Subtitle 6 of Title 22 of this article; and

5 (iv) The salaries and other expenses of the Department of State  
 6 Police and other State agencies, as approved by the Department, in enforcing the  
 7 provisions of § 25-111 of this article; and

8 (3) Credit the balance to the Transportation Trust Fund.

9 SUBTITLE 4. DIESEL VEHICLE EMISSIONS CONTROL PROGRAM.  
 10 23-401.

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
 12 INDICATED.

13 (B) "DIESEL VEHICLE" MEANS A MOTOR VEHICLE THAT:

14 (1) ~~OPERATES ON DIESEL FUEL~~ IS POWERED BY A COMPRESSION  
 15 IGNITION ENGINE; AND

16 (2) HAS A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING OR  
 17 GROSS COMBINATION WEIGHT RATING OVER 10,000 POUNDS.

18 (C) "EMISSIONS INSPECTOR" MEANS A PERSON WHO IS CERTIFIED BY THE  
 19 DEPARTMENT OF STATE POLICE TO PERFORM AN EMISSIONS TEST.

20 ~~(C)~~ (D) "EMISSIONS STANDARD" MEANS A MEASUREMENT OF ACCEPTABLE  
 21 DIESEL EMISSIONS.

22 ~~(D)~~ (E) "EMISSIONS TEST" MEANS THE SAMPLING AND MEASUREMENT OF  
 23 CERTAIN COMPONENTS OF DIESEL VEHICLE EXHAUST TO DETERMINE IF THE  
 24 DIESEL VEHICLE COMPLIES WITH AN EMISSIONS STANDARD.

25 ~~(E)~~ (F) "POLICE OFFICER" MEANS ANY UNIFORMED LAW ENFORCEMENT  
 26 OFFICER, ~~WHO IS:~~

27 (1) ~~CERTIFIED BY THE DEPARTMENT OF STATE POLICE TO PERFORM AN~~  
 28 ~~INSPECTION AUTHORIZED UNDER § 25-111 OF THIS ARTICLE; OR~~

29 (2) ~~UNDER THE SUPERVISION OR DIRECTION OF A LAW ENFORCEMENT~~  
 30 ~~OFFICER WHO IS CERTIFIED BY THE DEPARTMENT OF STATE POLICE TO PERFORM~~  
 31 ~~AN INSPECTION AUTHORIZED UNDER § 25-111 OF THIS ARTICLE.~~

1 23-402.

2 (A) (1) THE SECRETARY OF THE ENVIRONMENT, THE SECRETARY OF THE  
3 STATE POLICE, AND THE SECRETARY OF TRANSPORTATION SHALL JOINTLY  
4 ESTABLISH, BY REGULATION, A DIESEL VEHICLE EMISSIONS CONTROL PROGRAM.

5 (2) THE SECRETARY OF THE ENVIRONMENT, THE SECRETARY OF THE  
6 STATE POLICE, AND THE SECRETARY OF TRANSPORTATION SHALL JOINTLY ADOPT  
7 REGULATIONS TO IMPLEMENT, ADMINISTER, REGULATE, AND ENFORCE THE  
8 PROVISIONS OF THIS SUBTITLE.

9 (B) REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL ESTABLISH  
10 REQUIREMENTS FOR:

11 (1) ESTABLISHING DIESEL VEHICLE EMISSIONS STANDARDS;

12 (2) EMISSIONS TESTS FOR DIESEL VEHICLES THAT MAY INCLUDE  
13 DIRECT EMISSIONS MEASUREMENTS;

14 (3) EMISSIONS TEST EQUIPMENT;

15 (4) SUBJECT TO § 23-403 OF THIS SUBTITLE, ESTABLISHING EMISSIONS  
16 TEST PROCEDURES, BASED ON INFORMATION AVAILABLE FROM THE U.S.  
17 ENVIRONMENTAL PROTECTION AGENCY AND INFORMATION REGARDING  
18 STANDARDS ISSUED BY THE SOCIETY OF AUTOMOTIVE ENGINEERS, THAT PROVIDE  
19 FOR CONDUCTING AN EMISSIONS TEST~~;~~ AND

20 (I) ~~WHEN A DIESEL VEHICLE IS REQUIRED TO SUBMIT TO:~~

21 1. ~~WEIGHING AND MEASURING UNDER § 24-111 OF THIS~~  
22 ~~ARTICLE; OR~~

23 2. ~~A MOTOR CARRIER SAFETY INSPECTION UNDER § 25-111~~  
24 ~~OF THIS ARTICLE; AND~~

25 (II) ~~AT ANY ROADSIDE LOCATION OR TIME, WHEN A POLICE~~  
26 ~~OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL DIESEL~~  
27 ~~VEHICLE IS VIOLATING EMISSIONS STANDARDS ESTABLISHED UNDER THIS~~  
28 ~~SUBTITLE; AND~~

29 (5) ~~PROVIDING AN OPPORTUNITY TO ADMINISTRATIVELY APPEAL THE~~  
30 ~~FINDINGS OF AN EMISSIONS TEST THAT INDICATES A VIOLATION OF EMISSIONS~~  
31 ~~STANDARDS BEFORE THE ENFORCEMENT AND COLLECTION OF A FINE ASSESSED~~  
32 ~~UNDER § 23-404 OF THIS SUBTITLE.~~

33 (5) ESTABLISHING CERTIFICATION REQUIREMENTS FOR EMISSIONS  
34 INSPECTORS.

1 23-403.

2 (A) THE OPERATION OF A DIESEL VEHICLE ON ANY HIGHWAY IN THIS STATE  
3 CONSTITUTES THE CONSENT OF THE DRIVER AND OWNER OF THE DIESEL VEHICLE  
4 TO BE SUBJECT TO AN EMISSIONS TEST ESTABLISHED UNDER THIS SUBTITLE.

5 (B) THE DRIVER OF A DIESEL VEHICLE SHALL OBEY ANY SIGN OR DIRECTION  
6 OF A POLICE OFFICER TO STOP THE DIESEL VEHICLE FOR AN EMISSIONS TEST  
7 ADMINISTERED BY AN EMISSIONS INSPECTOR:-

8 (1) WHEN A DIESEL VEHICLE IS REQUIRED TO SUBMIT TO:

9 (I) WEIGHING AND MEASURING UNDER § 24-111 OF THIS ARTICLE;  
10 OR

11 (II) A MOTOR CARRIER SAFETY INSPECTION UNDER § 25-111 OF  
12 THIS ARTICLE; OR

13 (2) AT ANY LOCATION OR TIME, WHEN A POLICE OFFICER HAS  
14 REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL DIESEL VEHICLE IS  
15 VIOLATING EMISSIONS STANDARDS ESTABLISHED UNDER THIS SUBTITLE.

16 23-404.

17 ~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF A DIESEL VEHICLE~~  
18 ~~FAILS AN EMISSIONS TEST ESTABLISHED AND ADMINISTERED UNDER THIS~~  
19 ~~SUBTITLE, THE DRIVER OF THE DIESEL VEHICLE AT THE TIME OF THE TEST FAILURE~~  
20 ~~SHALL BE SUBJECT TO:~~

21 ~~(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$500; AND~~

22 ~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING~~  
23 ~~\$1,000.~~

24 ~~(B) (1) THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF~~  
25 ~~STATE POLICE, AND THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE A~~  
26 ~~PERSON WHOSE DIESEL VEHICLE FAILS AN EMISSIONS TEST AND WHO RECEIVES A~~  
27 ~~FINE UNDER SUBSECTION (A) OF THIS SECTION, THE OPPORTUNITY AFTER EACH~~  
28 ~~TEST FAILURE TO RETEST THE DIESEL VEHICLE NO LATER THAN 30 DAYS AFTER THE~~  
29 ~~DATE OF THE TEST FAILURE.~~

30 ~~(2) IF A DIESEL VEHICLE THAT FAILED AN EMISSIONS TEST IS~~  
31 ~~RETESTED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND PASSES THE EMISSIONS~~  
32 ~~TEST UNDER THIS SUBTITLE, THE FINE ASSESSED AGAINST THE DRIVER OF THE~~  
33 ~~DIESEL VEHICLE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED TO:~~

34 ~~(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$150; AND~~

35 ~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT~~  
36 ~~EXCEEDING \$500.~~

1           (3)     ~~IF A DRIVER OF A DIESEL VEHICLE THAT FAILED AN EMISSIONS TEST~~  
2 ~~SUBMITS A CERTIFICATION OF REPAIR OF THE DIESEL VEHICLE AS REQUIRED~~  
3 ~~UNDER REGULATIONS ADOPTED UNDER THIS SUBTITLE NO LATER THAN 30 DAYS~~  
4 ~~AFTER THE DATE OF THE TEST FAILURE, THE FINE ASSESSED AGAINST THE DRIVER~~  
5 ~~OF THE DIESEL VEHICLE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE~~  
6 ~~REDUCED TO:~~

7                   ~~(I)       FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$150; AND~~

8                   ~~(II)       FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT~~  
9 ~~EXCEEDING \$500.~~

10     (A)     IF A DIESEL VEHICLE FAILS AN EMISSIONS TEST ESTABLISHED AND  
11 ADMINISTERED UNDER THIS SUBTITLE, THE DRIVER OF THE DIESEL VEHICLE AT  
12 THE TIME OF TESTING SHALL BE ISSUED:

13           (1)     IF THE DIESEL VEHICLE IS REGISTERED UNDER THIS ARTICLE, A  
14 SAFETY EQUIPMENT REPAIR ORDER THAT DIRECTS THE REGISTERED OWNER OF THE  
15 VEHICLE TO REPAIR THE VEHICLE TO COMPLY WITH EMISSIONS STANDARDS; OR

16           (2)     IF THE DIESEL VEHICLE IS A FOREIGN REGISTERED VEHICLE,  
17 NOTICE INDICATING THAT THE VEHICLE IS NOT IN COMPLIANCE WITH EMISSIONS  
18 STANDARDS IN THIS STATE.

19     (B)     (1)     A DRIVER OF A DIESEL VEHICLE WHO IS ISSUED A SAFETY  
20 EQUIPMENT REPAIR ORDER UNDER SUBSECTION (A) OF THIS SECTION SHALL  
21 FORWARD THE ORDER TO THE REGISTERED OWNER OF THE VEHICLE.

22           (2)     A REGISTERED OWNER OF A DIESEL VEHICLE WHO RECEIVES A  
23 SAFETY EQUIPMENT REPAIR ORDER UNDER THIS SECTION SHALL REPAIR THE  
24 VEHICLE TO COMPLY WITH EMISSIONS STANDARDS ESTABLISHED UNDER THIS  
25 SUBTITLE AND SHALL BE RETESTED FOR EMISSIONS STANDARDS IN ACCORDANCE  
26 WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

27           (3)     (I)     IF A REGISTERED OWNER FAILS TO COMPLY WITH THE  
28 REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION WITHIN 30 DAYS OF THE  
29 ISSUANCE OF THE SAFETY EQUIPMENT REPAIR ORDER, THE REGISTRATION OF THE  
30 DIESEL VEHICLE MAY BE SUSPENDED BY THE ADMINISTRATION.

31                   (II)     THE REGISTRATION OF A DIESEL VEHICLE THAT IS SUSPENDED  
32 UNDER THIS PARAGRAPH MAY BE REINSTATED BY THE ADMINISTRATION IF THE  
33 VEHICLE IS RETESTED FOR EMISSIONS STANDARDS IN ACCORDANCE WITH  
34 REGULATIONS ADOPTED UNDER THIS SUBTITLE AND COMPLIES WITH EMISSIONS  
35 STANDARDS.

36                   (III)     IF THE REGISTRATION OF A DIESEL VEHICLE IS SUSPENDED  
37 UNDER THIS PARAGRAPH, THE OWNER OF THE DIESEL VEHICLE IS SUBJECT TO A  
38 FINE NOT EXCEEDING \$1,000 FOR A VIOLATION OF PARAGRAPH (2) OF THIS  
39 SUBSECTION.

1           (4)    (I)    THE OWNER OF A FOREIGN REGISTERED DIESEL VEHICLE WHO  
2 RECEIVES NOTICE INDICATING THAT THE DIESEL VEHICLE HAS FAILED TO COMPLY  
3 WITH EMISSIONS STANDARDS IN THIS STATE. SHALL REPAIR THE VEHICLE TO  
4 COMPLY WITH EMISSIONS STANDARDS ESTABLISHED UNDER THIS SUBTITLE AND  
5 SHALL PROVIDE EVIDENCE REQUIRED UNDER REGULATIONS ADOPTED UNDER THIS  
6 SUBTITLE THAT DEMONSTRATES COMPLIANCE WITH EMISSIONS STANDARDS.

7                           (II)    IF THE OWNER FAILS TO COMPLY WITH THE REQUIREMENTS  
8 OF SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS OF THE ISSUANCE OF  
9 THE NOTICE:

10                                   1.    THE DEPARTMENT OF STATE POLICE SHALL PROVIDE  
11 NOTICE TO THE FEDERAL HIGHWAY ADMINISTRATION OF THE UNITED STATES  
12 DEPARTMENT OF TRANSPORTATION THAT THE OWNER HAS VIOLATED STATE LAW IN  
13 VIOLATION OF 49 C.F.R. § 392.2; AND

14                                   2.    THE OWNER OF THE DIESEL VEHICLE IS SUBJECT TO A  
15 FINE NOT EXCEEDING \$1,000.

16    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 ~~October 1, 1999~~ July 1, 2000.