
By: **Senators Forehand and Baker**
Introduced and read first time: February 5, 1999
Assigned to: Judicial Proceedings

A BILL ENTITLED

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 fines 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 certain circumstances under which a test may be performed, and providing an
19 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; defining certain terms;
25 and generally relating to certain diesel vehicle emissions standards, testing, and
26 enforcement under certain circumstances.

27 BY repealing and reenacting, with amendments,
28 Article - Courts and Judicial Proceedings
29 Section 7-302(b)
30 Annotated Code of Maryland
31 (1998 Replacement Volume)

32 BY adding to
33 Article - Courts and Judicial Proceedings

1 Section 10-312
2 Annotated Code of Maryland
3 (1998 Replacement Volume)

4 BY repealing and reenacting, with amendments,
5 Article - Transportation
6 Section 12-118(b)
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 1998 Supplement)

9 BY adding to
10 Article - Transportation
11 Section 23-401 through 23-404, inclusive, to be under the new subtitle "Subtitle
12 4. Diesel Vehicle Emissions Control Program"
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 1998 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 7-302.

19 (b) (1) If a parking or impounding fine, penalty, or forfeiture, or a fine,
20 penalty, or forfeiture relating to violation of housing, building, fire, health, or
21 sanitation codes, or a Mass Transit Fare Payment Statute, or a fine or penalty
22 relating to failure to pay the prescribed toll at a highway or vehicular crossing is
23 collected by the District Court pursuant to a local ordinance, law, or regulation of a
24 political subdivision or municipality, or pursuant to a regulation of an agency of State
25 government authorized to regulate parking of motor vehicles, or pursuant to a statute
26 pertaining to the payment of mass transit fares, or pursuant to a statute pertaining to
27 the failure to pay tolls, it shall be remitted to the respective local government, or to
28 the State agency.

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

33 10-312.

34 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN A PROSECUTION FOR A
35 DIESEL EMISSIONS STANDARD VIOLATION UNDER TITLE 23, SUBTITLE 4 OF THE
36 TRANSPORTATION ARTICLE, EMISSIONS TEST RESULTS FROM EMISSIONS TEST
37 EQUIPMENT AS DESCRIBED IN § 23-402 OF THE TRANSPORTATION ARTICLE ARE

1 ADMISSIBLE AT TRIAL IN ANY COURT WITH JURISDICTION OVER THE PROCEEDING
2 IN THE STATE.

3 (B) IF AT THE TIME OF TESTING, A DIESEL VEHICLE FAILS TO MEET THE
4 EMISSIONS STANDARD ESTABLISHED UNDER TITLE 23, SUBTITLE 4 OF THE
5 TRANSPORTATION ARTICLE, THE FAILURE TO MEET THE ESTABLISHED EMISSIONS
6 STANDARD SHALL BE PRIMA FACIE EVIDENCE THAT THE OPERATOR OF THE DIESEL
7 VEHICLE VIOLATED THE PROVISIONS OF TITLE 23, SUBTITLE 4 OF THE
8 TRANSPORTATION ARTICLE.

9 **Article - Transportation**

10 12-118.

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

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

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

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

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

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

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

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

SUBTITLE 4. DIESEL VEHICLE EMISSIONS CONTROL PROGRAM.

2 23-401.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

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

6 (1) OPERATES ON DIESEL FUEL; AND

7 (2) HAS A MANUFACTURER'S GROSS WEIGHT RATING OVER 10,000
8 POUNDS.

9 (C) "EMISSIONS STANDARD" MEANS A MEASUREMENT OF ACCEPTABLE
10 DIESEL EMISSIONS.

11 (D) "EMISSIONS TEST" MEANS THE SAMPLING AND MEASUREMENT OF
12 CERTAIN COMPONENTS OF DIESEL VEHICLE EXHAUST TO DETERMINE IF THE
13 DIESEL VEHICLE COMPLIES WITH AN EMISSIONS STANDARD.

14 (E) "POLICE OFFICER" MEANS ANY UNIFORMED LAW ENFORCEMENT OFFICER
15 WHO IS:

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

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

21 23-402.

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

25 (2) THE SECRETARY OF THE ENVIRONMENT, THE SECRETARY OF THE
26 STATE POLICE, AND THE SECRETARY OF TRANSPORTATION SHALL JOINTLY ADOPT
27 REGULATIONS TO IMPLEMENT, ADMINISTER, REGULATE, AND ENFORCE THE
28 PROVISIONS OF THIS SUBTITLE.

29 (B) REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL ESTABLISH
30 REQUIREMENTS FOR:

31 (1) ESTABLISHING DIESEL VEHICLE EMISSIONS STANDARDS;

32 (2) EMISSIONS TESTS FOR DIESEL VEHICLES THAT MAY INCLUDE
33 DIRECT EMISSIONS MEASUREMENTS;

34 (3) EMISSIONS TEST EQUIPMENT;

1 (4) ESTABLISHING EMISSIONS TEST PROCEDURES, BASED ON
2 INFORMATION AVAILABLE FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY
3 AND INFORMATION REGARDING STANDARDS ISSUED BY THE SOCIETY OF
4 AUTOMOTIVE ENGINEERS, THAT PROVIDE FOR CONDUCTING AN EMISSIONS TEST:

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

6 1. WEIGHING AND MEASURING UNDER § 24-111 OF THIS
7 ARTICLE; OR

8 2. A MOTOR CARRIER SAFETY INSPECTION UNDER § 25-111
9 OF THIS ARTICLE; AND

10 (II) AT ANY ROADSIDE LOCATION OR TIME, WHEN A POLICE
11 OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL DIESEL
12 VEHICLE IS VIOLATING EMISSIONS STANDARDS ESTABLISHED UNDER THIS
13 SUBTITLE; AND

14 (5) PROVIDING AN OPPORTUNITY TO ADMINISTRATIVELY APPEAL THE
15 FINDINGS OF AN EMISSIONS TEST THAT INDICATES A VIOLATION OF EMISSIONS
16 STANDARDS BEFORE THE ENFORCEMENT AND COLLECTION OF A FINE ASSESSED
17 UNDER § 23-404 OF THIS SUBTITLE.

18 23-403.

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

22 (B) THE DRIVER OF A DIESEL VEHICLE SHALL OBEY ANY SIGN OR DIRECTION
23 OF A POLICE OFFICER TO STOP THE DIESEL VEHICLE FOR AN EMISSIONS TEST.

24 23-404.

25 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF A DIESEL VEHICLE
26 FAILS AN EMISSIONS TEST ESTABLISHED AND ADMINISTERED UNDER THIS
27 SUBTITLE, THE DRIVER OF THE DIESEL VEHICLE AT THE TIME OF THE TEST FAILURE
28 SHALL BE SUBJECT TO:

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

30 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING
31 \$1,000.

32 (B) (1) THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF
33 STATE POLICE, AND THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE A
34 PERSON WHOSE DIESEL VEHICLE FAILS AN EMISSIONS TEST AND WHO RECEIVES A
35 FINE UNDER SUBSECTION (A) OF THIS SECTION, THE OPPORTUNITY AFTER EACH
36 TEST FAILURE TO RETEST THE DIESEL VEHICLE NO LATER THAN 30 DAYS AFTER THE
37 DATE OF THE TEST FAILURE.

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

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

6 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT
7 EXCEEDING \$500.

8 (3) IF A DRIVER OF A DIESEL VEHICLE THAT FAILED AN EMISSIONS TEST
9 SUBMITS A CERTIFICATION OF REPAIR OF THE DIESEL VEHICLE AS REQUIRED
10 UNDER REGULATIONS ADOPTED UNDER THIS SUBTITLE NO LATER THAN 30 DAYS
11 AFTER THE DATE OF THE TEST FAILURE, THE FINE ASSESSED AGAINST THE DRIVER
12 OF THE DIESEL VEHICLE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
13 REDUCED TO:

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

15 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT
16 EXCEEDING \$500.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1999.