

SENATE BILL 509

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R6

1999 Regular Session
9r1255
CF 9r2036

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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 16, 1999

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
28 registration of a certain diesel vehicle under certain circumstances; providing

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

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

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

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

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

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

29 **Article - Courts and Judicial Proceedings**

30 ~~7-302.~~

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

1 the failure to pay tolls, it shall be remitted to the respective local government, or to
2 the State agency.

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

7 10-312.

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

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

20 **Article - Transportation**

21 12-118.

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

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

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

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

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

37 (iii) Funds required, in addition to the funding provided in § 13-804,
38 for the salaries and other expenses of the Automotive Safety Enforcement Division of

1 the Department of State Police as approved by the Department in enforcing Title 23 of
2 this article and Subtitle 6 of Title 22 of this article; and

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

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

7 SUBTITLE 4. DIESEL VEHICLE EMISSIONS CONTROL PROGRAM.

8 23-401.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

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

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

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

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

18 ~~(C)~~ (D) "EMISSIONS STANDARD" MEANS A MEASUREMENT OF ACCEPTABLE
19 DIESEL EMISSIONS.

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

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

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

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

30 23-402.

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

1 (2) THE SECRETARY OF THE ENVIRONMENT, THE SECRETARY OF THE
2 STATE POLICE, AND THE SECRETARY OF TRANSPORTATION SHALL JOINTLY ADOPT
3 REGULATIONS TO IMPLEMENT, ADMINISTER, REGULATE, AND ENFORCE THE
4 PROVISIONS OF THIS SUBTITLE.

5 (B) REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL ESTABLISH
6 REQUIREMENTS FOR:

7 (1) ESTABLISHING DIESEL VEHICLE EMISSIONS STANDARDS;

8 (2) EMISSIONS TESTS FOR DIESEL VEHICLES THAT MAY INCLUDE
9 DIRECT EMISSIONS MEASUREMENTS;

10 (3) EMISSIONS TEST EQUIPMENT;

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

16 ~~(F) WHEN A DIESEL VEHICLE IS REQUIRED TO SUBMIT TO:~~

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

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

21 ~~(H) AT ANY ROADSIDE LOCATION OR TIME, WHEN A POLICE~~
22 ~~OFFICER HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL DIESEL~~
23 ~~VEHICLE IS VIOLATING EMISSIONS STANDARDS ESTABLISHED UNDER THIS~~
24 ~~SUBTITLE; AND~~

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

29 (5) ESTABLISHING CERTIFICATION REQUIREMENTS FOR EMISSIONS
30 INSPECTORS.

31 23-403.

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

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

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

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

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

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

12 23-404.

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

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

18 (2) ~~FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING~~
19 ~~\$1,000.~~

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

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

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

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

33 (3) ~~IF A DRIVER OF A DIESEL VEHICLE THAT FAILED AN EMISSIONS TEST~~
34 ~~SUBMITS A CERTIFICATION OF REPAIR OF THE DIESEL VEHICLE AS REQUIRED~~
35 ~~UNDER REGULATIONS ADOPTED UNDER THIS SUBTITLE NO LATER THAN 30 DAYS~~
36 ~~AFTER THE DATE OF THE TEST FAILURE, THE FINE ASSESSED AGAINST THE DRIVER~~

1 ~~OF THE DIESEL VEHICLE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE~~
2 ~~REDUCED TO:~~

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

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

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

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

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

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

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

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

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

32 (III) IF THE REGISTRATION OF A DIESEL VEHICLE IS SUSPENDED
33 UNDER THIS PARAGRAPH, THE OWNER OF THE DIESEL VEHICLE IS SUBJECT TO A
34 FINE NOT EXCEEDING \$1,000 FOR A VIOLATION OF PARAGRAPH (2) OF THIS
35 SUBSECTION.

36 (4) (I) THE OWNER OF A FOREIGN REGISTERED DIESEL VEHICLE WHO
37 RECEIVES NOTICE INDICATING THAT THE DIESEL VEHICLE HAS FAILED TO COMPLY
38 WITH EMISSIONS STANDARDS IN THIS STATE, SHALL REPAIR THE VEHICLE TO
39 COMPLY WITH EMISSIONS STANDARDS ESTABLISHED UNDER THIS SUBTITLE AND

1 SHALL PROVIDE EVIDENCE REQUIRED UNDER REGULATIONS ADOPTED UNDER THIS
2 SUBTITLE THAT DEMONSTRATES COMPLIANCE WITH EMISSIONS STANDARDS.

3 (II) IF THE OWNER FAILS TO COMPLY WITH THE REQUIREMENTS
4 OF SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS OF THE ISSUANCE OF
5 THE NOTICE:

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

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

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