SB 366

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 366 (Senator Grosfeld, *et al.*)
Judicial Proceedings

Maryland Clean Cars Act of 2005

This bill requires the Maryland Department of the Environment (MDE), in conjunction with the Motor Vehicle Administration (MVA), to establish by regulation a Low Emissions Vehicle (LEV) Program applicable to vehicles of the 2009 model year and each model year thereafter. MDE and the MVA must jointly adopt regulations by June 1, 2006.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: General fund expenditure increase of $42,000 in FY 2006 for MDE to implement the new program. Future year expenditures are annualized and adjusted for inflation. State expenditures for vehicle purchases could increase beginning in FY 2009. Potential significant increase in Transportation Trust Fund (TTF) expenditures in FY 2009 for computer programming changes and modifications to the Vehicle Emissions Inspection Program (VEIP); ongoing TTF expenditures for MVA implementation could also be significant. Revenues would not be significantly affected.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	$0	$0	$0	$0	$0
GF Expenditure	42,000	54,500	57,800	81,300	75,200
SF Expenditure	0	0	0	-	-
Net Effect	($42,000)	($54,500)	($57,800)	($81,300)	($75,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local expenditures for vehicle purchases could increase beginning with the 2009 model year.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill:

- requires the program to be authorized by Section 177 of the federal Clean Air Act (CAA);
- requires MDE, as part of the program, to establish motor vehicle emissions standards and compliance requirements for each model year included in the program as authorized by CAA;
- provides that, if the Ozone Transport Commission established under CAA recommends that all member jurisdictions adopt a LEV program, the program established under the bill may be made applicable to vehicles beginning with the 2010 model year or the 2011 model year;
- establishes limitations to what the program and the regulations may require;
- authorizes MDE to: (1) adopt California regulations, procedures, and certification data by reference; (2) adopt by regulation motor vehicle emissions inspection, recall, and warranty requirements; and (3) work in cooperation with and enter into contracts or agreements with California, other states, and the District of Columbia to administer certification, in-use compliance, inspection, recall, and warranty requirements;
- requires MDE to work in conjunction with other states and the District of Columbia to promote and facilitate the regional adoption of LEV programs authorized by CAA;
- authorizes the MVA to adopt regulations to exempt motor vehicles from the program under specified conditions;
- prohibits the MVA from titling or registering a motor vehicle not in compliance with the bill or its regulations;
- requires the MVA to adopt regulations to prohibit the transfer of motor vehicles or motor vehicle engines not in compliance with the bill;
- establishes prohibitions relating to the transfer of a motor vehicle or motor vehicle engine not in compliance with the program and the procurement through fraud or misrepresentation of the title or registration of a noncompliant motor vehicle; and
- applies existing enforcement provisions for violations of specified ambient air quality control provisions to a violation of the bill.

Current Law: As amended in 1990, CAA requires all areas of the country to achieve specific air quality standards and provides penalties for states failing to achieve the standards. Pursuant to Section 177 of CAA, any state may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines if the standards are identical to the California standards for which a waiver has been granted for such model year. However, California and that state must adopt the standards at least two model years before the beginning of the model year subject to those standards.

Background: California's LEV Program, a new car certification program, was adopted in 1990. The centerpiece of the program is a declining fleet average for nonmethane organic gas (NMOG). Four new sets of individual vehicle tailpipe standards were created, and manufacturers were given the flexibility to produce vehicles meeting any set of standards as well as meeting federal standards so long as their sales weighted average complied with the declining NMOG average. The program has been amended over the years to further reduce emissions from mobile sources. The first LEV standards were in effect from 1994 through 2003. The second phase of the program, called LEV II, took effect in 2004 and will run through 2010. LEV II will advance the state's clean air goals through more stringent emission reduction standards for passenger cars, light-duty trucks, and medium-duty vehicles.

According to MDE, standards for most vehicles in LEV II are similar to the federal Tier 2 standards that are currently in effect in Maryland. However, MDE advises that California's LEV II includes two components that would have impacts on Maryland: (1) the zero emission vehicle (ZEV) component, which requires that 10% of certain types of vehicles sold each year meet zero emission vehicle standards; and (2) the greenhouse gas (GHG) component, that requires automobile manufacturers to begin selling vehicles with reduced GHG emissions.

California encourages automobile manufacturers to meet the ZEV mandate by using a variety of advanced technologies including battery electric vehicles, hybrid electric vehicles, super low-emitting gasoline vehicles, and hydrogen fuel cell vehicles. According to MDE, other states with LEV programs, such as California and New York, have provided financial incentives to support the ZEV mandate. Automobile manufacturers are working to develop affordable vehicles that will meet the ZEV mandate and provide the performance customers expect.

According to MDE, the GHG component of California's LEV II has been met with legal challenges due to the close relationship between GHGs and fuel economy, which can only be regulated by the federal government; implementation will likely be delayed as a result.

According to MDE, several other states, including Connecticut, Maine, Massachusetts, New Jersey, New York, Rhode Island, and Vermont, have implemented LEV programs.

State Revenues: The civil and criminal penalty provisions of this bill are not expected to significantly affect State revenues.

State Expenditures: General fund expenditures for MDE could increase by an estimated $41,972 in fiscal 2006, as discussed below. State expenditures for vehicle purchases could increase beginning with model year 2009 vehicles. TTF expenditures could increase significantly beginning in fiscal 2009.

Maryland Department of the Environment

General fund expenditures could increase by an estimated $41,972 in fiscal 2006, which assumes an October 1, 2005 start-up date. This estimate reflects the cost of hiring one public health engineer to develop regulations and implement the new program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	$39,631
Equipment/Operating Expenses	2,341
Total FY 2006 State Expenditures	**$41,972**

Future year expenditures reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) in fiscal 2009 and 2010, costs to conduct outreach to dealers and consumers.

The Motor Vehicle Administration

The MVA advises that TTF expenditures could increase by an estimated $425,000 in fiscal 2009 ($200,000 to upgrade the onboard diagnostic equipment units at VEIP stations and to modify the VEIP contractor's software to accommodate the new vehicles that would be sold as a result of this bill; and $225,000 in computer programming expenditures to make changes to the Customer Information Control System (CICS) to reflect the bill's provisions relating to titling, registering, and transferring vehicles).

The Department of Legislative Services (DLS) disagrees. With respect to VEIP, DLS advises that it is impossible to predict what vehicles will be available when the new program is implemented and whether those vehicles will require a new mechanical interface with VEIP. DLS further advises that it is likely that the MVA will incur these costs at some point in the future regardless of this bill. The contract with the current contractor expires in 2009, so the MVA will be establishing a new contract at that time.

With respect to the estimated computer programming costs, DLS advises that the extent to which exemptions will be made under the program is speculative. In addition, if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting CICS. DLS acknowledges that programming costs could be significant, but advises that a reliable estimate of any such increase cannot be made at this time.

Ongoing TTF expenditures to implement the bill's titling, registration, and exemption provisions could also be significant. Although no quantitative estimate can be made at this time, the MVA advises that it could incur potentially significant costs related to vehicle certification; recording and tracking certification information; ensuring that noncompliant vehicles are refused registration; reporting relevant information to MDE and/or the U.S. Environmental Protection Agency; and ensuring that online dealers comply with the titling and registration requirements.

Costs to Purchase Vehicles Beginning with Model Year 2009

State expenditures for the purchase of vehicles could increase beginning with model year 2009 vehicles; a reliable estimate of any such increase cannot be made at this time. With respect to the ZEV mandate, the California Air Resources Board (CARB), in a 2003 report regarding proposed amendments to its ZEV regulations, estimated the incremental cost of a partial ZEV (PZEV) at $100 and the incremental cost of an alternative technology PZEV (AT PZEV) at $1,200 between 2009 and 2011 and $700 in 2012 and beyond. Costs for ZEVs were estimated to be significantly higher. CARB noted, however, that its estimates were subject to great uncertainty given the difficulty of estimating future costs for evolving technology. In addition, CARB noted that owners of AT PZEVs are expected to realize savings in the long run due to greater fuel economy.

With respect to the GHG standards, in a December 2004 report to the Governor and the California legislature, CARB estimated the incremental costs for 2009-2012 (the first phase of the GHG program) to be $367 (for passenger cars and small trucks/sport-utility vehicles) and $277 (for large trucks/sport-utility vehicles); for 2013-2016 (the second phase), the estimated incremental costs increase to $1,064 (for passenger cars and small trucks/sport-utility vehicles) and $1,029 (for large trucks/sport-utility vehicles). CARB noted, however, that consumers are expected to realize savings in the long run due to greater fuel economy.

The criminal and civil penalty provisions of this bill are not expected to significantly affect State expenditures.

Local Revenues: The civil and criminal penalty provisions of this bill are not expected to significantly affect local revenues.

Local Expenditures: Local expenditures for the purchase of vehicles could increase beginning with model year 2009 vehicles; however, operating costs could decrease in the long run due to greater fuel economy. The civil and criminal penalty provisions of this bill are not expected to significantly affect local expenditures.

Small Business Effect: Once the new program has been implemented, small businesses may have to pay more to purchase a vehicle meeting the standards adopted under the program; however, greater fuel economy could reduce operating costs in the long run. New car dealerships could be affected to the extent the increased price of vehicles impacts sales.

Additional Information

Prior Introductions: Similar legislation was introduced as SB 563/HB 314 of 2004 and SB 542/HB 373 of 2003. The Senate Judicial Proceedings Committee held a hearing on SB 563 of 2004 but the bill was subsequently withdrawn; the committee reported SB 542 of 2003 unfavorably. The House Environmental Matters Committee reported both HB 314 of 2004 and HB 373 of 2003 unfavorably.

Cross File: HB 564 (Delegate Bobo, *et al.*) – Environmental Matters.

Information Source(s): Maryland Department of the Environment, Maryland Department of Transportation, Anne Arundel County, Garrett County, Montgomery County, Prince George's County, California Air Resources Board, U.S. Environmental Protection Agency, Department of Legislative Services

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Analysis by: Lesley G. Cook

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