

HOUSE BILL 189

P2, J1, F1

9lr1039
CF 9lr2002

By: **Delegates Morhaim, Cardin, and Hubbard**

Introduced and read first time: January 26, 2009

Assigned to: Health and Government Operations and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Respiratory Illness Prevention Act**

3 FOR the purpose of prohibiting the operation of a public school bus on or after a
4 certain date if the bus does not have certain diesel emission control equipment;
5 requiring a certain percentage of public school buses in a fleet to have certain
6 diesel emission control equipment before a certain date; requiring a county to
7 include a certain contract clause in public school bus transportation contracts;
8 providing for an extension of the deadline for public school buses to have the
9 required equipment under certain circumstances; prohibiting the application of
10 a certain equipment requirement if the Department of the Environment makes
11 certain findings; prohibiting the venting of crankcase emissions from a public
12 school bus after a certain date; authorizing compliance of the prohibition on
13 venting of crankcase emissions to be accomplished by certain means; requiring
14 the Department of the Environment to adopt certain regulations regarding the
15 venting of crankcase emissions; requiring the Director of the Asthma Control
16 Program to include installation of diesel emissions control equipment on public
17 school buses in the statewide asthma control plan; requiring the Asthma
18 Control Program to identify and promote certain educational programs for
19 students; requiring the Asthma Control Program to set up a certain grant
20 program; requiring the grants to be used for the installation of diesel emission
21 control equipment on public school buses; requiring the grants to be funded by
22 certain federal and State funds; requiring a unit to require that certain
23 information regarding diesel emissions control equipment be included in a bid
24 for a certain State contract; requiring certain State procurement contracts to
25 include certain clauses regarding diesel emissions control equipment; requiring
26 the State to reimburse a certain contractor a certain percentage of the cost of
27 installing certain diesel emissions control equipment on certain construction
28 equipment and vehicles; requiring that the reimbursement be paid from certain
29 federal and State funds; defining certain terms; and generally relating to the
30 installation of diesel emissions control equipment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY adding to
2 Article – Education
3 Section 7–808
4 Annotated Code of Maryland
5 (2008 Replacement Volume)
- 6 BY repealing and reenacting, with amendments,
7 Article – Environment
8 Section 2–301
9 Annotated Code of Maryland
10 (2007 Replacement Volume and 2008 Supplement)
- 11 BY repealing and reenacting, without amendments,
12 Article – Health – General
13 Section 13–1701, 13–1702, 13–1703, and 13–1706
14 Annotated Code of Maryland
15 (2005 Replacement Volume and 2008 Supplement)
- 16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 13–1704 and 13–1705
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2008 Supplement)
- 21 BY repealing and reenacting, with amendments,
22 Article – State Finance and Procurement
23 Section 13–205
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2008 Supplement)
- 26 BY adding to
27 Article – State Finance and Procurement
28 Section 13–218.2
29 Annotated Code of Maryland
30 (2006 Replacement Volume and 2008 Supplement)

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

33 **Article – Education**

34 **7–808.**

35 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
36 MEANINGS INDICATED.

1 (2) **“CLOSED CRANKCASE VENTILATION SYSTEM” MEANS**
2 **EQUIPMENT THAT COMPLETELY CLOSES THE CRANKCASE OF A DIESEL ENGINE**
3 **TO THE ATMOSPHERE AND ROUTES THE CRANKCASE VAPOR TO THE ENGINE**
4 **INTAKE AIR SYSTEM OR THE EXHAUST SYSTEM.**

5 (3) **“FLEET” MEANS ONE OR MORE PUBLIC SCHOOL BUSES**
6 **OWNED, CONTROLLED, OR OPERATED BY THE SAME COUNTY.**

7 (4) **“LEVEL 1 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
8 **CONTROL DEVICE THAT ACHIEVES A PARTICULATE MATTER EMISSION**
9 **REDUCTION OF 25% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
10 **LEVELS.**

11 (5) **“LEVEL 2 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
12 **CONTROL DEVICE THAT ACHIEVES A PARTICULATE MATTER EMISSION**
13 **REDUCTION OF 50% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
14 **LEVELS.**

15 (6) **“LEVEL 3 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
16 **CONTROL DEVICE THAT:**

17 (I) **ACHIEVES A PARTICULATE MATTER EMISSION**
18 **REDUCTION OF 85% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
19 **LEVELS; OR**

20 (II) **REDUCES EMISSIONS TO LESS THAN OR EQUAL TO 0.01**
21 **GRAMS OF PARTICULATE MATTER PER BRAKE HORSEPOWER-HOUR.**

22 (7) **“PUBLIC SCHOOL BUS” MEANS A TYPE I SCHOOL VEHICLE AS**
23 **DEFINED IN § 11-173 OF THE TRANSPORTATION ARTICLE THAT IS OWNED,**
24 **OPERATED, OR CONTROLLED BY A COUNTY.**

25 (8) **“VERIFIED DIESEL EMISSION CONTROL DEVICE” MEANS:**

26 (I) **AN EMISSION CONTROL DEVICE OR STRATEGY THAT**
27 **HAS BEEN VERIFIED TO ACHIEVE A SPECIFIED DIESEL PARTICULATE MATTER**
28 **REDUCTION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
29 **OR THE CALIFORNIA AIR RESOURCES BOARD; OR**

30 (II) **REPLACEMENT OR REPOWERING WITH AN ENGINE THAT**
31 **IS CERTIFIED TO SPECIFIC PARTICULATE MATTER EMISSIONS PERFORMANCE**
32 **BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THE**
33 **CALIFORNIA AIR RESOURCES BOARD.**

1 **(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ON OR**
2 **BEFORE JANUARY 1, 2012, A PUBLIC SCHOOL BUS MAY NOT BE OPERATED IN**
3 **THE STATE UNLESS:**

4 **(I) THE BUS HAS LEVEL 3 CONTROLS; AND**

5 **(II) THE LEVEL 3 CONTROLS ARE PROPERLY MAINTAINED**
6 **AND FUNCTIONING.**

7 **(2) AT LEAST 50% OF THE PUBLIC SCHOOL BUSES IN EACH FLEET**
8 **SHALL HAVE LEVEL 3 CONTROLS ON OR BEFORE JULY 1, 2011.**

9 **(3) EACH COUNTY SHALL REQUIRE ALL PUBLIC SCHOOL BUS**
10 **TRANSPORTATION CONTRACTS TO INCLUDE A CLAUSE REQUIRING THAT PUBLIC**
11 **SCHOOL BUSES MEET THE REQUIREMENTS OF THIS SECTION ON OR BEFORE**
12 **JANUARY 1, 2011.**

13 **(C) (1) A PUBLIC SCHOOL BUS THAT HAS OPERATIONAL LEVEL 1**
14 **CONTROLS INSTALLED ON OR BEFORE OCTOBER 1, 2009, SHALL HAVE AN**
15 **ADDITIONAL 2 YEARS TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF**
16 **THIS SECTION.**

17 **(2) A PUBLIC SCHOOL VEHICLE THAT HAS LEVEL 2 CONTROLS**
18 **INSTALLED ON OR BEFORE OCTOBER 1, 2009, SHALL HAVE AN ADDITIONAL 4**
19 **YEARS TO MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.**

20 **(D) A FLEET CONSISTING OF FIVE OR FEWER PUBLIC SCHOOL BUSES**
21 **SHALL HAVE AN ADDITIONAL 2 YEARS TO COMPLY WITH THE REQUIREMENTS OF**
22 **SUBSECTIONS (B), (C), AND (E)(1) OF THIS SECTION.**

23 **(E) (1) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A**
24 **PUBLIC SCHOOL BUS IF THE DEPARTMENT OF THE ENVIRONMENT MAKES A**
25 **WRITTEN FINDING THAT NO VERIFIED DIESEL EMISSIONS CONTROL DEVICE**
26 **WITH LEVEL 3 CONTROLS EXISTS FOR THE BUS.**

27 **(2) IF A WRITTEN FINDING IS MADE UNDER PARAGRAPH (1) OF**
28 **THIS SUBSECTION, THE PUBLIC SCHOOL BUS SHALL HAVE THE HIGHEST LEVEL**
29 **CONTROLS THAT ARE AVAILABLE AND APPROPRIATE FOR THE VEHICLE AS**
30 **DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT INSTALLED.**

31 **(F) (1) BEGINNING JULY 1, 2011, IT IS UNLAWFUL TO VENT**
32 **CRANKCASE EMISSIONS FROM ANY PUBLIC SCHOOL BUS.**

1 In this subtitle, "Program" means the Asthma Control Program.

2 13-1702.

3 There is an Asthma Control Program in the Department.

4 13-1703.

5 (a) The Secretary shall appoint a director for the Program.

6 (b) The director may establish advisory councils, task forces, committees,
7 and work groups to the extent necessary to implement the Program.

8 13-1704.

9 (a) The Director shall:

10 (1) Establish a statewide asthma coalition composed of individuals
11 and organizations with an interest in asthma;

12 (2) Develop and finalize a comprehensive statewide asthma plan **THAT**
13 **SHALL INCLUDE THE INSTALLATION OF DIESEL EMISSIONS CONTROL**
14 **EQUIPMENT ON PUBLIC SCHOOL BUSES;**

15 (3) After finalization of the development of the statewide asthma plan,
16 implement a statewide asthma intervention program;

17 (4) Develop and organize collaborative relationships with asthma
18 control and stakeholders within other State and local agencies and in the private
19 sector;

20 (5) Develop and implement an asthma surveillance system;

21 (6) Upon completion of the asthma surveillance system in paragraph
22 (5) of this subsection, identify mechanisms for the utilization of surveillance data in
23 identifying interventions to control asthma;

24 (7) Identify and promote educational programs for providers, parents,
25 guardians, caregivers, **STUDENTS**, and asthma patients that include information on
26 identifying symptoms of asthma, effective treatment for asthma, and methods of
27 preventing asthma; and

28 (8) Identify sources of grant funding for the Asthma Control Program.

29 (b) The Program may:

30 (1) Provide funding for local asthma intervention initiatives; and

1 (2) Provide training for school personnel, or other appropriate
2 personnel, on asthma education in conjunction with the Department of Education and
3 local health departments.

4 (C) THE PROGRAM SHALL ESTABLISH DIESEL EMISSIONS CONTROL
5 EQUIPMENT GRANTS THAT SHALL BE AWARDED TO COUNTIES TO INSTALL
6 DIESEL EMISSIONS CONTROLS ON PUBLIC SCHOOL BUSES.

7 13-1705.

8 (a) The Program shall be funded as provided in the State budget.

9 (b) The funding provided in the State budget for the Program is intended to
10 complement funding received:

11 (1) By the Department from the Centers for Disease Control and
12 Prevention for the Program for enhancing the State’s capacity to address asthma from
13 a public health perspective; and

14 (2) From any other lawful source.

15 (C) THE PROGRAM SHALL FUND THE DIESEL EMISSIONS CONTROL
16 EQUIPMENT GRANTS UNDER § 13-1704(C) OF THIS SUBTITLE USING:

17 (1) FEDERAL CONGESTION MITIGATION AND AIR QUALITY
18 FUNDS;

19 (2) FEDERAL DIESEL EMISSIONS REDUCTION ACT OF 2005
20 FUNDS;

21 (3) ANY OTHER AVAILABLE FEDERAL FUNDS; AND

22 (4) ANY APPROPRIATED STATE FUNDS.

23 13-1706.

24 The Secretary shall, in consultation with the director, adopt rules and
25 regulations necessary to implement the Program.

26 Article - State Finance and Procurement

27 13-205.

28 (a) A unit:

1 (1) shall draft specifications to encourage maximum practicable
2 competition without modifying the requirements of the State; and

3 (2) may not draft specifications to favor a single prospective bidder or
4 offeror.

5 (b) A unit shall require a prospective bidder or offeror of supplies or
6 construction to state in the bid or offer:

7 (1) whether the procurement will or may include recycled materials;
8 and

9 (2) the types, amounts, and application of recycled materials that the
10 bidder or offeror intends to include in the procurement.

11 (c) (1) (i) **IN THIS SUBSECTION THE FOLLOWING WORDS HAVE**
12 **THE MEANINGS INDICATED.**

13 (ii) **“LEVEL 1 CONTROL” HAS THE MEANING STATED IN §**
14 **13-218.2 OF THIS SUBTITLE.**

15 (iii) **“LEVEL 2 CONTROL” HAS THE MEANING STATED IN §**
16 **13-218.2 OF THIS SUBTITLE.**

17 (iv) **“LEVEL 3 CONTROL” HAS THE MEANING STATED IN §**
18 **13-218.2 OF THIS SUBTITLE.**

19 (2) **A UNIT SHALL REQUIRE A PROSPECTIVE BIDDER ON A**
20 **PROCUREMENT CONTRACT FOR CONSTRUCTION OVER \$2 MILLION TO STATE IN**
21 **THE BID:**

22 (i) **THAT THE BIDDER RECOGNIZES THAT DIESEL NONROAD**
23 **VEHICLES ON-SITE MORE THAN 3 DAYS DURING THE PROJECT ARE REQUIRED**
24 **TO BE EQUIPPED WITH:**

25 1. **LEVEL 1 CONTROLS FOR PROJECTS TO BEGIN ON**
26 **OR AFTER JANUARY 1, 2011;**

27 2. **FOR ENGINES WITH A RATING OF BETWEEN 25**
28 **AND 75 HORSEPOWER, LEVEL 2 CONTROLS FOR PROJECTS TO BEGIN ON OR**
29 **AFTER JULY 1, 2014; AND**

30 3. **FOR ENGINES WITH A RATING OF AT LEAST 75**
31 **HORSEPOWER, LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON OR AFTER**
32 **JULY 1, 2014;**

1 **(II) THAT THE BIDDER RECOGNIZES THAT HEAVY DUTY**
2 **DIESEL VEHICLES AND DIESEL GENERATORS ON-SITE MORE THAN 3 DAYS**
3 **DURING THE PROJECT ARE REQUIRED TO BE EQUIPPED WITH:**

4 **1. A MINIMUM OF LEVEL 1 CONTROLS FOR**
5 **PROJECTS TO BEGIN ON OR AFTER JANUARY 1, 2011; AND**

6 **2. LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON**
7 **OR AFTER JULY 1, 2011;**

8 **(III) WHETHER THE VEHICLES ARE CURRENTLY EQUIPPED**
9 **WITH THE REQUIRED CONTROLS; AND**

10 **(IV) IF THE VEHICLES ARE NOT CURRENTLY EQUIPPED WITH**
11 **THE REQUIRED CONTROLS, THE COST OF INSTALLING THE REQUIRED**
12 **CONTROLS.**

13 **13-218.2.**

14 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
15 **MEANINGS INDICATED.**

16 **(2) “LEVEL 1 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
17 **CONTROL DEVICE THAT ACHIEVES A PARTICULATE MATTER EMISSION**
18 **REDUCTION OF 25% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
19 **LEVELS.**

20 **(3) “LEVEL 2 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
21 **CONTROL DEVICE THAT ACHIEVES A PARTICULATE MATTER EMISSION**
22 **REDUCTION OF 50% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
23 **LEVELS.**

24 **(4) “LEVEL 3 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
25 **CONTROL DEVICE THAT:**

26 **(I) ACHIEVES A PARTICULATE MATTER EMISSION**
27 **REDUCTION OF 85% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
28 **LEVELS; OR**

29 **(II) REDUCES EMISSIONS TO LESS THAN OR EQUAL TO 0.01**
30 **GRAMS OF PARTICULATE MATTER PER BRAKE HORSEPOWER-HOUR.**

31 **(5) “VERIFIED DIESEL EMISSION CONTROL DEVICE” MEANS:**

1 **(I) AN EMISSION CONTROL DEVICE OR STRATEGY THAT HAS**
2 **BEEN VERIFIED TO ACHIEVE A SPECIFIED DIESEL PARTICULATE MATTER**
3 **REDUCTION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
4 **OR THE CALIFORNIA AIR RESOURCES BOARD; OR**

5 **(II) REPLACEMENT OR REPOWERING WITH AN ENGINE THAT**
6 **IS CERTIFIED TO SPECIFIC PARTICULATE MATTER EMISSIONS PERFORMANCE**
7 **BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THE**
8 **CALIFORNIA AIR RESOURCES BOARD.**

9 **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH**
10 **PROCUREMENT CONTRACT FOR CONSTRUCTION OVER \$2 MILLION SHALL**
11 **INCLUDE CLAUSES THAT:**

12 **(1) REQUIRE:**

13 **(I) DIESEL NONROAD VEHICLES ON-SITE MORE THAN 3**
14 **DAYS DURING THE PROJECT TO BE EQUIPPED WITH:**

15 **1. LEVEL 1 CONTROLS FOR PROJECTS TO BEGIN ON**
16 **OR AFTER JANUARY 1, 2011;**

17 **2. LEVEL 2 CONTROLS FOR PROJECTS TO BEGIN ON**
18 **OR AFTER JULY 1, 2014 FOR ENGINES WITH A RATING OF BETWEEN 25 AND 75**
19 **HORSEPOWER; AND**

20 **3. LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON**
21 **OR AFTER JULY 1, 2014, FOR ENGINES WITH A RATING OF AT LEAST 75**
22 **HORSEPOWER;**

23 **(II) HEAVY DUTY DIESEL VEHICLES AND DIESEL**
24 **GENERATORS ON-SITE MORE THAN 3 DAYS DURING THE PROJECT TO BE**
25 **EQUIPPED WITH:**

26 **1. A MINIMUM OF LEVEL 1 CONTROLS FOR**
27 **PROJECTS TO BEGIN ON OR AFTER JANUARY 1, 2011; AND**

28 **2. LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON**
29 **OR AFTER JULY 1, 2011; AND**

30 **(III) THE CONTRACTOR TO HAVE THE HIGHEST LEVEL OF**
31 **CONTROLS AVAILABLE IF THE DEPARTMENT OF THE ENVIRONMENT MAKES A**

1 WRITTEN FINDING THAT THE REQUIRED LEVEL OF CONTROL IS NOT AVAILABLE;
2 AND

3 (2) PROHIBIT:

4 (I) THE VENTING OF CRANKCASE EMISSIONS FROM DIESEL
5 NONROAD VEHICLES AND HEAVY-DUTY DIESEL VEHICLES; AND

6 (II) THE NONESSENTIAL IDLING OF DIESEL NONROAD AND
7 HEAVY-DUTY DIESEL VEHICLES; AND

8 (3) PROVIDE FOR REIMBURSEMENT BY THE STATE OF 50% OF
9 THE COST OF INSTALLING THE CONTROLS REQUIRED BY ITEM (1) OF THIS
10 SUBSECTION IF THE CONTRACTOR HAS NOT RECEIVED THE 50%
11 REIMBURSEMENT FOR INSTALLATION OF CONTROLS ON THE PIECE OF
12 EQUIPMENT ON A PRIOR CONTRACT.

13 (C) TO PROVIDE THE REIMBURSEMENT REQUIRED UNDER SUBSECTION
14 (B)(3) OF THIS SECTION, THE STATE SHALL USE:

15 (1) FEDERAL CONGESTION MITIGATION AND AIR QUALITY
16 FUNDS;

17 (2) FEDERAL DIESEL EMISSIONS REDUCTION ACT OF 2005
18 FUNDS;

19 (3) ANY OTHER AVAILABLE FEDERAL FUNDS; AND

20 (4) ANY APPROPRIATED STATE FUNDS.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2009.