SENATE BILL 922

By: Senator Watson
Introduced and read first time: February 11, 2022
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 Vehicle Emissions Inspection Program – Standards, Requirements, and
Application

3 FOR the purpose of requiring, beginning on a date determined by the Motor Vehicle
4 Administration and the Secretary of the Environment, the Vehicle Emissions
5 Inspection Program to provide for a biennial exhaust emissions test only on vehicles
6 that are equipped in a certain manner and are at least a certain age in model years;
7 repealing the requirement that the emissions equipment and misfueling inspection
8 be performed under the Program; altering the grace period for qualified hybrid
9 vehicles under the Program; altering the circumstances under which certain findings
10 prohibit the grant of a waiver from Program requirements; authorizing a vehicle
11 owner to take the biennial exhaust emissions test at an approved certified repair
12 facility; authorizing a certified repair facility to charge a certain additional fee
13 approved by the Administration for performing an exhaust emissions test under the
14 Program; authorizing the Administration to close centralized test facilities operated
15 under the Program under certain circumstances; and generally relating to standards
16 and requirements for and the application of the Vehicle Emissions Inspection
17 Program.

18 BY repealing and reenacting, with amendments,

19 Article – Transportation

20 Section 23–201 through 23–206 and 23–207

21 Annotated Code of Maryland

22 (2020 Replacement Volume and 2021 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

25 Article – Transportation

26 23–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
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(a) In this subtitle the following words have the meanings indicated.

(b) “Emissions control program” means the program requiring and implementing the exhaust emissions test and the emissions equipment and misfueling inspection.

(c) “Emissions equipment” means any emissions control device that has been installed on a motor vehicle by a manufacturer of motor vehicles.

(d) “Emissions equipment and misfueling inspection” means an inspection to verify the presence of required emissions equipment and an inspection to determine that the vehicle has not been misfueled.

(e) (1) “Emissions related repair” means the inspection, adjustment, repair, or replacement of motor vehicle engine systems, subsystems, or components as necessary to bring a motor vehicle into compliance with emissions standards adopted in accordance with the provisions of this subtitle.

(2) “Emissions related repair” does not include adjustment, repair, or replacement necessitated by tampering or misfueling.

(f) (E) (1) “Emissions standard” means a requirement that limits the quantity, quality, rate, or concentration of emissions from a motor vehicle.

(2) “Emissions standard” includes a requirement that relates to the operation or maintenance of a motor vehicle to assure continuous emissions reduction.

(g) (F) “Exhaust emissions test” means the sampling and measurement of certain components of motor vehicle exhaust to determine whether the motor vehicle is in compliance with an emissions standard.

(h) (G) “Misfueling” means the introduction of leaded fuel into a motor vehicle designed by the motor vehicle manufacturer to use unleaded fuel.

(i) (H) “Secretary” means the Secretary of the Environment.

23–202.

(a) (1) [Subject to subsection (d) of this section, the] THE Administration and the Secretary shall establish an emissions control program in the State in accordance with the federal Clean Air Act.

(2) The program shall remain in effect only as long as required by federal law.

(b) (1) Subject to [paragraph (3)] PARAGRAPHS (3) AND (4) of this
subsection, the emissions control program shall provide for a biennial exhaust emissions
test [and emissions equipment and misfueling inspection] for all vehicles of the 1977 model
year and each model year thereafter.

(2) The emissions control program may not authorize an exhaust emissions
test [or emissions equipment and misfueling inspection] for any vehicle of a model year
earlier than the 1977 model year.

(3) (i) In this paragraph, “qualified hybrid vehicle” means an
automobile that:

1. Meets all applicable regulatory requirements;
2. Meets the current vehicle exhaust standard set under the
federal Tier 2 program for gasoline–powered passenger cars under 40 C.F.R. Part 80 et seq.;
and
3. Can draw propulsion energy from both of the following
sources of stored energy:
   A. Gasoline or diesel fuel; and
   B. A rechargeable energy storage system.

(ii) A qualified hybrid vehicle is not required to submit to a first
exhaust emissions test [and emissions equipment and misfueling inspection] until THE
LATER OF:

1. 3 years after the date on which the vehicle was first
registered in the State; OR
2. THE YEAR THAT THE VEHICLE IS 7 MODEL YEARS OLD.

(4) BEGINNING ON A DATE DETERMINED BY THE ADMINISTRATION
AND THE SECRETARY, THE EMISSIONS CONTROL PROGRAM SHALL PROVIDE FOR A
BIENNIAL EXHAUST EMISSIONS TEST ONLY ON VEHICLES THAT ARE:

(I) EQUIPPED WITH AN ON–BOARD DIAGNOSTIC II SYSTEM;

AND

(II) 7 MODEL YEARS OLD AND OLDER.

(c) By [rules and regulations] REGULATION, the Administration and the
Secretary:
(1) Shall grant a waiver to a vehicle owner if:

(i) The vehicle fails to pass the exhaust emissions test;

(ii) The vehicle owner exhibits evidence acceptable to the Administration that the owner, for an initial exhaust emissions test occurring:

1. In calendar years 1998 through 1999 has actually incurred an expenditure of $150 towards emissions related repairs to the vehicle within 60 days after the initial exhaust emissions test;

2. In calendar years 2000 through 2001 has actually incurred an expenditure towards emissions related repairs to the vehicle within 120 days after the initial exhaust emissions test in an amount of:

   A. $200 for vehicles of model years 1990 and older;

   B. $300 for vehicles of model years 1991 through 1997; or

   C. $450 for vehicles of model years 1998 and newer; and

3. On or after January 1, 2002, has actually incurred an expenditure of $450 towards emissions related repairs to the vehicle within 120 days after the exhaust emissions test;

   (iii) The vehicle fails a retest, except that if the vehicle owner has exhibited evidence acceptable to the Administration that the vehicle owner actually incurred the minimum expenditure as required under item (ii) of this item for the emissions related repair to the vehicle within 30 days before the initial exhaust emissions test or the period allowed under federal law, whichever is longer, a retest is not required; and

   (iv) The vehicle owner exhibits evidence that the emissions related repairs qualifying for a waiver under items (ii) and (iii) of this item were performed by a repair technician and at a repair facility both certified under item (4) of this subsection;

(2) Notwithstanding the provisions of this section, may not grant a waiver if it is found [in the testing process] that factory-installed emissions equipment has been tampered with or removed, or that the vehicle has been misfueled;

(3) Unless otherwise prohibited by federal law, may grant additional waivers to extend the time for compliance in cases of financial hardship or for unusual circumstances;

(4) Shall establish criteria to certify repair technicians and facilities for the purpose of bringing vehicles into compliance with the applicable emissions standards, including the payment of reasonable fees to cover the costs of administering and overseeing the certification program;
(5) May provide for the suspension, revocation, or denial of renewal of the
certification of a repair technician or facility upon evidence that vehicles repaired by that
technician or facility for the purpose of bringing them into compliance with the applicable
emissions standards have repeatedly failed tests or retests and the Administration and the
Secretary have clear and convincing evidence the repair technician or facility is not meeting
satisfactory performance standards;

(6) [Shall define the inspection parameters for the emissions equipment
and misfueling inspection;

(7) ] Shall adopt a schedule for the exhaust emissions test; AND

[(8) Shall adopt a schedule for the emissions equipment and misfueling
inspections; and

(9) [7] Shall establish, under Title 2 of the Environment Article,
emissions standards to be used for the exhaust emissions tests [and emissions equipment
and misfueling inspections] of motor vehicles under this subtitle.

[(d) (1) Notwithstanding subsection (c)(6) of this section or any other provision
of law, during the period from January 1, 1995 through May 31, 1997, the emissions control
program established under this subtitle may not require for any vehicle other than a
State–owned vehicle or, to the extent authorized by federal law, a federally owned vehicle:

(i) Transient mass–emission testing using the IM 240 driving cycle
referenced under 40 C.F.R. Part 51;

(ii) An evaporative system integrity (pressure) test or an evaporative
system transient purge test that requires the disconnection or manipulation of any engine
component, including any hose or emissions equipment, that is located in the vehicle’s
engine compartment;

(iii) Removal of the driver from a vehicle being tested or inspected; or

(iv) On–road testing.

(2) (i) The Administration, in consultation with the Secretary, shall
develop and offer to owners of vehicles subject to the emissions control program an incentive
program designed to encourage voluntary submission to the test described in paragraph
(1)(i) of this subsection.

(ii) Notwithstanding the provisions of § 23–205(a)(2) of this subtitle
and subsection (c)(1) of this section, the incentives offered under this paragraph may
include reduced test fees, flexible test schedules, the waiver of late fees, the reduction of
expenditures incurred for emissions related repairs necessary to obtain a waiver, and any
other cost–effective incentive that is consistent with State and federal law and is reasonably expected by the Administration to increase the number of vehicles that undergo the test described in paragraph (1)(i) of this subsection.

(iii) 1. The Administration shall notify vehicle owners of the opportunity to voluntarily submit a vehicle to the testing described in subparagraph (i) of this paragraph.

2. The notice required under this subparagraph shall be:

   A. Prominently displayed at all emissions inspection facilities; and

   B. Included by the Administration in test notices and other mailings related to the emissions control program that are directed to vehicle owners.

23–203.

(a) (1) By [rules and regulations] REGULATION, the Administration and the Secretary shall provide for the establishment of facilities to conduct any tests or inspections required to be performed under this subtitle.

(2) If the Administration and the Secretary determine that the system can be installed and operated more effectively and economically by an independent contractor than if installed and operated by the Administration and the Secretary, the Administration and the Secretary may award the installation and operation of the inspection facilities to an independent contractor selected in accordance with the bidding procedures established by the laws of this State.

(3) (i) If, on or after July 1, 1991, the Administration and Secretary are required by federal law to extend the emissions control program to additional areas of the State and the Administration and Secretary determine that the inspection facilities can be installed and operated more effectively and economically by one or more independent contractors than if installed and operated by the Administration and Secretary, the Administration and Secretary may:

   1. Award the installation and operation of the inspection facilities to one independent contractor for the installation and operation of all inspection facilities in this State; or

   2. Create separate regions of the areas of the State required to participate in an emissions control program for the purpose of separately awarding contracts for the installation and operation of the inspection facilities required for each region to one or more independent contractors.

(ii) All independent contractors shall be selected in accordance with the procedures established under the State Finance and Procurement Article.
(iii) The Administration and the Secretary may establish a statewide centralized or decentralized program or any combination of centralized and decentralized programs in separate regions of the State.

(b) If the program is awarded to an independent contractor to operate centralized inspection facilities, the CENTRALIZED facilities shall be provided, equipped, and maintained by the independent contractor, and the operating personnel of the facilities shall be employees of the contractor, and not of the State, and the contractor may not perform emissions related repairs as defined in § 23–201 of this subtitle.

(c) The Administration and the Secretary [shall] MAY determine[, on or before March 1, 1998,] whether the following criteria for establishing a decentralized [retesting] EXHAUST EMISSIONS TESTING program have been satisfied:

(1) Testing equipment and procedures, yielding results that correlate to tests and inspections performed at centralized inspection facilities in the State within 95% accuracy or within a different degree of accuracy approved by the Administration and the Secretary, are feasible for use in certified repair facilities approved for [retesting] THE TESTING of vehicles; and

(2) The establishment of a decentralized [retesting] TESTING option in the State does not result in a loss of emissions reduction benefits to the State under the federal Clean Air Act.

(d) If the Administration and the Secretary determine that the criteria listed in subsection (c) of this section have not been met in a given year, they [shall] MAY determine[, on or before March 1 of the succeeding year,] whether the criteria have been satisfied in [the intervening period] A SUBSEQUENT YEAR.

(e) Notwithstanding subsections (a) and (b) of this section, if the program is awarded to an independent contractor to operate centralized inspection facilities and if the Administration and the Secretary have determined that the criteria listed in subsection (c) of this section have been satisfied, the Administration and the Secretary shall propose regulations to:

(1) Allow the owner of a vehicle that [fails an exhaust emissions test or emissions equipment and misfueling inspection at a centralized inspection facility] IS SUBJECT TO THE EXHAUST EMISSIONS TEST to have the vehicle [retested] TESTED at either a centralized inspection facility or an approved certified repair facility;

(2) Allow a certified repair facility to [retest] TEST vehicles if approved for that purpose by the Department of the Environment;

(3) [Require the initial exhaust emissions test and emissions equipment and misfueling inspection in each biennial test cycle to be performed at a centralized...
inspection facility;

(4) Establish criteria for testing equipment, procedures, and reporting of [retests] TESTS for approved certified repair facilities;

[(5) (4)] Provide for the suspension, revocation, or denial of renewal of approval for a certified repair facility to perform [retests] TESTS if the Secretary, or the Secretary’s designee, determines that the facility has performed fraudulent [retests] TESTS or is not in compliance with the regulations adopted under this subsection; and

[(6) (5)] Establish a reasonable fee for approval of a certified repair facility to perform [retests] TESTS, covering the costs of the approvals and oversight of the decentralized [retesting] TESTING program.

(F) THE ADMINISTRATION MAY CLOSE A CENTRALIZED TEST FACILITY IF:

(1) THE TEST VOLUME AT THE TEST FACILITY FALLS BELOW A THRESHOLD ESTABLISHED BY THE ADMINISTRATION; AND

(2) THE ADMINISTRATION DETERMINES THERE ARE AN ADEQUATE AMOUNT OF DECENTRALIZED TEST FACILITIES IN THE AREA TO SERVE VEHICLE OWNERS WHO ARE SUBJECT TO THE TEST.

23–204.

The facilities established or approved under § 23–203 of this subtitle shall conduct the exhaust emissions tests [and emissions equipment and misfueling inspections] of motor vehicles to determine whether each vehicle complies with emissions standards established under this subtitle for that vehicle.

23–205.

(a) (1) Subject to paragraph (2) of this subsection, the Administration and the Secretary shall set the fee to be charged for each vehicle to be inspected and tested by a facility.

(2) (I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE fee established under this subsection:

(i) During the period from January 1, 1995 through May 31, 1997, may not exceed $12; and

(ii) During the period after May 31, 1997, may not exceed $14.

(II) A DECENTRALIZED TEST FACILITY MAY CHARGE A
CUSTOMER CONVENIENCE FEE APPROVED BY THE ADMINISTRATION IN ADDITION TO THE INSPECTION FEE.

(b) The fee shall be collected in a manner established by the Administration and the Secretary.

(c) A specific portion of the fee shall be paid to or retained by the Administration to cover the cost of administration and enforcement of the emissions control program, as provided in the contract between the contractor and the State.

(a) An owner of a motor vehicle that is registered in this State shall have the vehicle inspected and tested as required under this subtitle.

(b) A motor vehicle registered in this State, unless exempted or given a waiver under this subtitle, shall meet the standards and requirements of this subtitle.

(c) Notwithstanding any rule or regulation to the contrary, the owner of any gasoline powered motor vehicle registered under § 13–916 of this article, with a maximum gross weight up to and including 26,000 pounds, shall have the vehicle inspected and tested as required under this subtitle if the motor vehicle:

   (1) has a maximum gross weight not exceeding 26,000 pounds;

   (2) is equipped with an on-board diagnostic II system.

The Administration and the Secretary may jointly adopt regulations as required for purposes of implementation, administration, regulation, and enforcement of the provisions of this subtitle, including rules and regulations that, consistent with federal law, exempt certain vehicles from the inspections and tests under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.