

# SENATE BILL 922

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CF HB 1079

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By: **Senator Watson**

Introduced and read first time: February 11, 2022

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

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

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

19 BY repealing and reenacting, with amendments,  
20 Article – Transportation  
21 Section 23–201 through 23–206 and 23–207  
22 Annotated Code of Maryland  
23 (2020 Replacement Volume and 2021 Supplement)

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

26 **Article – Transportation**

27 23–201.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this subtitle the following words have the meanings indicated.

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

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

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

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

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

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

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

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

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

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

25 23–202.

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

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

31 (b) (1) Subject to [paragraph (3)] **PARAGRAPHS (3) AND (4)** of this

1 subsection, the emissions control program shall provide for a biennial exhaust emissions  
2 test [and emissions equipment and misfueling inspection] for all vehicles of the 1977 model  
3 year and each model year thereafter.

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

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

9 1. Meets all applicable regulatory requirements;

10 2. Meets the current vehicle exhaust standard set under the  
11 federal Tier 2 program for gasoline-powered passenger cars under 40 C.F.R. Part 80 et seq.;  
12 and

13 3. Can draw propulsion energy from both of the following  
14 sources of stored energy:

15 A. Gasoline or diesel fuel; and

16 B. A rechargeable energy storage system.

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

20 1. 3 years after the date on which the vehicle was first  
21 registered in the State; **OR**

22 2. **THE YEAR THAT THE VEHICLE IS 7 MODEL YEARS OLD.**

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

26 (I) **EQUIPPED WITH AN ON-BOARD DIAGNOSTIC II SYSTEM;**  
27 **AND**

28 (II) **7 MODEL YEARS OLD AND OLDER.**

29 (c) By [rules and regulations] **REGULATION**, the Administration and the  
30 Secretary:

1 (1) Shall grant a waiver to a vehicle owner if:

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

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

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

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

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

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

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

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

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

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

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

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

31 (4) Shall establish criteria to certify repair technicians and facilities for the  
32 purpose of bringing vehicles into compliance with the applicable emissions standards,  
33 including the payment of reasonable fees to cover the costs of administering and overseeing  
34 the certification program;

1 (5) May provide for the suspension, revocation, or denial of renewal of the  
2 certification of a repair technician or facility upon evidence that vehicles repaired by that  
3 technician or facility for the purpose of bringing them into compliance with the applicable  
4 emissions standards have repeatedly failed tests or retests and the Administration and the  
5 Secretary have clear and convincing evidence the repair technician or facility is not meeting  
6 satisfactory performance standards;

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

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

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

12 (9)] (7) Shall establish, under Title 2 of the Environment Article,  
13 emissions standards to be used for the exhaust emissions tests [and emissions equipment  
14 and misfueling inspections] of motor vehicles under this subtitle.

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

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

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

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

26 (iv) On-road testing.

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

31 (ii) Notwithstanding the provisions of § 23-205(a)(2) of this subtitle  
32 and subsection (c)(1) of this section, the incentives offered under this paragraph may  
33 include reduced test fees, flexible test schedules, the waiver of late fees, the reduction of  
34 expenditures incurred for emissions related repairs necessary to obtain a waiver, and any

1 other cost-effective incentive that is consistent with State and federal law and is  
2 reasonably expected by the Administration to increase the number of vehicles that undergo  
3 the test described in paragraph (1)(i) of this subsection.

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

7 2. The notice required under this subparagraph shall be:

8 A. Prominently displayed at all emissions inspection  
9 facilities; and

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

12 23-203.

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

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

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

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

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

35 (ii) All independent contractors shall be selected in accordance with  
36 the procedures established under the State Finance and Procurement Article.

1 (iii) The Administration and the Secretary may establish a statewide  
2 centralized or decentralized program or any combination of centralized and decentralized  
3 programs in separate regions of the State.

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

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

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

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

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

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

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

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

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

1 inspection facility;

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

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

8 [(6)] (5) Establish a reasonable fee for approval of a certified repair  
9 facility to perform [retests] TESTS, covering the costs of the approvals and oversight of the  
10 decentralized [retesting] TESTING program.

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

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

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

17 23–204.

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

22 23–205.

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

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

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

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

31 (II) A DECENTRALIZED TEST FACILITY MAY CHARGE A



1 **CUSTOMER CONVENIENCE FEE APPROVED BY THE ADMINISTRATION IN ADDITION**  
2 **TO THE INSPECTION FEE.**

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

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

8 23–206.

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

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

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

17 **(1) HAS A MAXIMUM GROSS WEIGHT NOT EXCEEDING 26,000 POUNDS;**  
18 **AND**

19 **(2) IS EQUIPPED WITH AN ON–BOARD DIAGNOSTIC II SYSTEM.**

20 23–207.

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

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