

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1556 (Delegate Stein)

Environment and Transportation

**Environment - Advanced Clean Cars II Program and Advanced Clean Trucks
Regulation - Application and Enforcement**

This bill prohibits the Maryland Department of the Environment (MDE) from applying specified enforcement or penalty provisions for the failure to meet any requirements under the California Advanced Clean Cars II (ACC II) Program or the Advanced Clean Trucks (ACT) regulations for model years 2027 and 2028.

Fiscal Summary

State Effect: The bill does not affect MDE's expenditures; however, it likely has significant impacts on MDE's operations and may affect the State's ability to maintain compliance with federal air quality standards, as discussed below. Potential minimal decrease in special fund revenues (likely not before FY 2030) from any penalties that otherwise would have been imposed.

Local Effect: The bill is not anticipated to directly affect local finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Advanced Clean Cars II Program, the Advanced Clean Trucks Program, and the Adoption of California Regulations

Vehicle Certification under the Federal Clean Air Act: Pursuant to the federal Clean Air Act (CAA), vehicles sold in the United States must be certified under one of

two certification programs: (1) the federal program (Tier 2); or (2) the California program (the Clean Car Program). Section 177 of the CAA Amendments of 1990 provides states the ability to adopt the California program in lieu of the federal program as long as the adopted state program is identical to the California program and the state allows two model years lead time from adoption to implementation.

Maryland Clean Cars Act of 2007: The Maryland Clean Cars Act of 2007 (Chapters 111 and 112) requires MDE to adopt regulations implementing the California Clean Car Program (also referred to as the California Low Emissions Vehicle Program, or CAL LEV) in Maryland. Maryland's implementing regulations adopted, through incorporation by reference in COMAR 26.11.34.02, the applicable California regulations. The CAL LEV Program is a dynamic, changing program in which many of the relevant California regulations are continuously updated. To retain California's standards, Maryland must remain consistent with its regulations, which means when California updates its regulations, Maryland must reflect those changes by amending State regulations.

Advanced Clean Cars II Regulations: On August 25, 2022, the California Air Resources Board (CARB) adopted the ACC II Program regulations requiring that (1) all new cars and light trucks sold in California be zero-emission vehicles (ZEV) by model year 2035 and (2) internal combustion engine vehicles meet increasingly stringent pollution standards during the period in which they continue to be sold. CARB's regulation affects vehicles beginning with the 2026 model year.

Pursuant to the requirements of the Maryland Clean Cars Act of 2007, MDE adopted California's ACC II regulations effective September 18, 2023. Maryland's implementation of the ACC II Program will begin with the 2027 model year.

Advanced Clean Trucks Regulations: CARB adopted its ACT regulations in June 2020 and updated the rule in March 2021. Broadly, the rule requires manufacturers of medium- and heavy-duty trucks to sell an increasing number of ZEV trucks in California (as opposed to diesel or gasoline vehicles). The emissions reductions requirements begin in 2024 and increase through 2035. ACT includes ZEV sales requirements for any manufacturer that certifies on-road vehicles over 8,500 pounds for sale in California.

Chapters 96 and 97 of 2023 required MDE, by December 1, 2023, to adopt regulations establishing requirements for the sale of new medium-duty and heavy-duty ZEVs in the State beginning with model year 2027. However, Chapters 96 and 97 authorize MDE to delay the implementation of the required regulations by one or more model years if it is determined, based on criteria identified through a required needs assessment and deployment plan, that implementation is not yet feasible. MDE promulgated regulations that adopt ACT, which went into effect in December 2023, and establish sales requirements

that begin in model year 2027. (See DLS Control No. 23-191.) The needs assessment and deployment plan are expected to be finalized in December 2025.

Applicable Enforcement and Penalty Provisions: Title 2, Subtitle 6 of the Environment Article establishes penalty and enforcement provisions applicable to the State's air quality control statute and implementing regulations, including the ACC II Program and the ACT regulations. MDE is authorized to issue corrective orders and bring an action to enjoin any conduct that violates any provision of the Title 2 (Ambient Air Quality Control), or any rule, regulation, or order adopted under the title. Violators are also subject to specified administrative, civil, and criminal penalties. Any penalties collected pursuant to these provisions are paid into the Maryland Clean Air Fund.

Federally Mandated Air Quality Standards and State Implementation Plans

CAA regulates air emissions from stationary and mobile sources and authorizes the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards to limit levels of "criteria pollutants" to protect public health and public welfare and to regulate emissions of hazardous pollutants. A geographic area that meets or exceeds the primary standard is an "attainment area"; those that do not are "nonattainment areas." A single geographic area may have acceptable levels of one criteria air pollutant but unacceptable levels of one or more other criteria air pollutants.

Under § 110 of CAA, each state must develop applicable state implementation plans (SIPs) for primary and secondary ambient air quality standards adopted by EPA for various air pollutants. A SIP must identify sources of air pollution and determine what emissions reductions are needed to meet federal air quality standards for a particular air pollutant. Within three years (or as otherwise specified by EPA) after the promulgation of a national primary ambient air quality standard for any air pollutant, each state must submit a plan, which provides for implementation, maintenance, and enforcement of that standard, as specified.

State Fiscal Effect:

Enforcement of Advanced Clean Cars II Program and Advanced Clean Trucks Regulations

MDE advises that the bill does not affect its expenditures; however, it does affect its enforcement of the ACC II Program and the ACT regulations. As discussed above, in Maryland (1) the ACC II Program regulations went into effect September 18, 2023, and affect model year 2027 to 2035 vehicles and (2) the ACT regulations went into effect December 25, 2023, and establish sales requirements beginning in model year 2027. According to MDE, both the ACC II Program and the ACT regulations have flexibility built into the programs to help manufacturers comply with program requirements. These

include the ability to earn credits that can be used and traded with other manufacturers for compliance. There are also grace periods that allow manufacturers to make up for shortfalls in any year that would trigger noncompliance. Under the ACC II Program, a manufacturer has three years to demonstrate compliance or acquire compliance credits. Under the ACT regulations, there is a one-year grace period; however, according to MDE, California is planning to amend ACT to establish a three-year grace period, consistent with the ACC II Program.

Thus, under current law, enforcement of the ACC II Program is not expected to occur until the compliance deadline of fall 2031 (for model year 2027 vehicle sales) and until fall 2032 (for model year 2028 vehicle sales). Enforcement of the ACT regulations is not expected to occur until the compliance deadline of fall 2029 (for model year 2027 vehicle sales) and fall 2030 (for model year 2028 vehicle sales), or potentially later if CARB adopts a three-year grace period for ACT.

The bill prohibits MDE from applying the enforcement or penalty provisions of Title 2, Subtitle 6 of the Environment Article to a motor vehicle manufacturer for failure to meet any of the requirements under the ACC II Program or the ACT regulations for model years 2027 and 2028. Under these enforcement and penalty provisions, among other things, violators are subject to specified administrative, civil, and criminal penalties. Accordingly, special fund revenues may decrease minimally, likely not until fiscal 2030, to the extent that MDE otherwise would have collected any monetary penalties in the absence of the bill. The Department of Legislative Services notes that any such effect may not occur until fiscal 2032 if California extends the grace period for ACT compliance.

MDE notes, however, that neither Maryland nor any other state that has implemented the Advanced Clean Cars I regulations has ever assessed a monetary penalty for noncompliance with ZEV requirements. MDE further notes that, as discussed above, the ACC II Program and the ACT regulations have significant regulatory flexibility that facilitates manufacturer compliance with the programs without triggering any enforcement processes. Accordingly, the extent to which any monetary penalties for noncompliance would be imposed in the absence of the bill is unclear.

Compliance with Federal Air Quality Standards

According to MDE, the ACC II Program is an integral component of Maryland's SIP under CAA. By delaying enforcement of the program, MDE advises that the bill could result in a loss of SIP benefits that would need to be made up from other sectors. MDE further advises that if Maryland does not find a way to otherwise meet its SIP, the State could be subject to certain federal sanctions, including a loss of federal highway funds.

Small Business Effect: Small businesses involved in the manufacture, installation, and maintenance of electric vehicle infrastructure, and those involved in servicing or repairing electric vehicles, may see a short-term decrease in the demand for their services due to the delayed enforcement of the ACC II Program and the ACT regulations.

Conversely, small businesses that sell, lease, service, or repair motor vehicles with internal combustion engines may benefit from the delayed enforcement of the ACC II Program and the ACT regulations in Maryland.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of the Environment; Maryland Department of Transportation; U.S. Environmental Protection Agency; California Air Resources Board; Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2025
km/lgc

Analysis by: Kathleen P. Kennedy

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