

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2308

H.P. 1645

House of Representatives, February 6, 1992

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MARSH of West Gardiner.
Cosponsored by Representative ADAMS of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Establish the Motor Vehicle Emission Inspection Program.



Be it enacted by the People of the State of Maine as follows:

38 MRSA c. 28 is enacted to read:

CHAPTER 28

MOTOR VEHICLE EMISSION INSPECTION PROGRAM

§2401. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Certificate of compliance. "Certificate of compliance" means a serially numbered written instrument or device indicating that a motor vehicle complies with the standards and criteria adopted by the department under section 2403.

2. Certificate of waiver. "Certificate of waiver" means a serially numbered written instrument or device indicating that the requirement of compliance with the standards and criteria of the department has been waived for a motor vehicle under section 2403.

3. Fleet emission inspection station. "Fleet emission inspection station" means a facility for the inspection of motor vehicle fleets operated under license issued by the department under section 2405.

4. Motor vehicle. "Motor vehicle" has the same meaning as provided under Title 29, section 1, subsection 7.

5. New motor vehicle. "New motor vehicle" means a motor vehicle to which the legal title has never been transferred to an ultimate retail purchaser.

6. Public emission inspection station. "Public emission inspection station" means a facility for motor vehicle inspection operated under contract with the department under section 2404.

§2402. Inspection requirement

1. Requirement. Beginning no later than January 1, 1994, each motor vehicle registered in any area designated by the Federal Government under 40 Code of Federal Regulations, Part 81 as nonattainment for ozone and classified as a moderate or more severe nonattainment area must be inspected for air pollution emissions as provided in this chapter.

2. Location of inspection. The inspection must take place at a public or fleet emission inspection station.

2 3. Issuance of safety inspection. The motor vehicle safety
4 inspection, as provided in Title 29, section 2502, may not be
6 issued unless the vehicle has been inspected for air pollution
 emissions and received a certificate of compliance or waiver as
 provided by this chapter.

8 4. Certificate of compliance or waiver. The certificate of
10 compliance or waiver must always be carried in an easily
12 accessible place in or about the vehicle for which the
 certificate was issued.

14 5. Inspection of certificate by law enforcement officer.
16 Any law enforcement officer in uniform whose duty it is to
 enforce the motor vehicle laws pursuant to Title 29, section 2501
 may demand and inspect the certificate of compliance or waiver.

18 A. If any person fails to produce the certificate of
20 compliance or waiver for a law enforcement officer, pursuant
22 to this subsection, this failure is prima facie evidence
 that the motorist is in violation of this section and is
 subject to the penalties outlined in Title 29, section 2501.

24 B. If any person charged with a violation of this
26 subsection exhibits to a law enforcement officer designated
28 by the issuing officer no later than 24 hours before the
30 time set for the court appearance evidence of certificate of
 compliance or waiver that was in effect at the time of
 violation, the proceeding for violation of this subsection
 must be dismissed.

32 6. Exempt vehicles. The following motor vehicles are
34 exempt from the requirements of this section:

36 A. A motor vehicle manufactured before the model year 1968;

38 B. A motor vehicle having a gross vehicle weight rating of
 more than 8,500 pounds;

40 C. A motor vehicle exempt from safety inspection or
42 requiring only a partial safety inspection under Title 29,
 section 2506;

44 D. A new motor vehicle at the time of initial sale. The
46 department has the option of requiring emission inspection
48 prior to completion of the sale of a new motor vehicle that
 is more than one year old;

50 E. A motor vehicle registered as a street rod as defined in
 Title 29, section 1, subsection 15-C-1;

2 F. A class of motor vehicles exempted by the rules of the
3 department because that class of vehicle presents
4 prohibitive inspection problems or is inappropriate for
5 inspection;

6
7 G. A motor vehicle that obtains its power solely by a means
8 other than gasoline, such as diesel fuel, electricity and
9 propane; and

10
11 H. Motorcycles and mopeds as defined in Title 29, section 1
12 and autocycles as defined in the motor vehicle inspection
13 manual used by the Department of Transportation.

14 **§2403. Motor Vehicle Emission Inspection Program**

15 The board shall establish the Motor Vehicle Emission
16 Inspection Program to test and inspect motor vehicles that are
17 subject to the requirements of section 2402 for air pollution
18 emissions.

19 1. Criteria and standards. The board, on or before
20 January 1, 1993, shall adopt rules establishing standards and
21 criteria governing the testing and inspection of motor vehicles
22 for air pollution emissions and emissions equipment. The rules
23 must:

24 A. Specify maximum emission levels for motor vehicles,
25 giving consideration to the levels of emissions necessary to
26 achieve applicable federal and state ambient air quality
27 standards. The standards may be different for different
28 model years, sizes and types of motor vehicles;

29 B. Establish testing procedures and standards for test
30 equipment used for inspection. Test procedures and
31 standards must be available to the automobile pollution
32 equipment repair industry to assure the public that owners
33 of vehicles that fail emission inspections may seek and
34 receive effective maintenance for those vehicles according
35 to manufacturers' specifications;

36 C. Establish standards and procedures for the issuance of
37 licenses for fleet emission inspection stations; and

38 D. Establish standards and procedures for the issuance of
39 certificates of compliance and waiver.

40 2. Repairs. Repairs or adjustments necessary to bring a
41 vehicle into compliance with applicable emission limitations are
42 the responsibility of the vehicle owner or any person selected by
43 the owner.

2 3. Certificate of waiver. A vehicle, including a fleet
4 vehicle, that fails to pass the designated emission standard upon
6 an initial inspection and after repair or adjustment again fails
 to pass the emission inspection is eligible for a waiver of
 compliance if:

8 A. A low emission adjustment, as prescribed by rule, is
10 performed on the vehicle; and

12 B. Either the estimated cost of repairs and adjustments
14 necessary to bring the vehicle into compliance with emission
16 standards or the actual cost of repairs already performed on
 the vehicle in accordance with the inspection report under
 section 2404, subsection 3 exceeds the repair cost limit
 determined in accordance with subsection 4.

18 4. Repair cost limit. In assessing the costs of repairs
20 and adjustments included in the repair cost limit, as determined
22 by the requirements of the federal Clean Air Act Amendments of
 1990, Public Law 101-549 and federal regulation, the following
 costs must be excluded:

24 A. Costs covered under warranty; and

26 B. Costs necessary to repair or replace any emissions
28 control system or mechanism that has been removed,
30 dismantled or rendered in violation of Title 29, section
 2189.

32 5. On-road testing. The board may adopt standards and
34 procedures for on-road testing to identify gross emitting
 vehicles that may require emission testing prior to their next
 scheduled emission inspection.

36 §2404. Public emission inspection stations; contract

38 The Motor Vehicle Emission Inspection Program shall provide
40 for the inspection of motor vehicles at public emission
 inspection stations.

42 1. Public emission inspection stations. The department
44 shall determine by rule the number and location of the public
46 emission inspection stations. The number and location of public
48 emission inspection stations must provide convenient public
 access. Convenient public access must be defined by the board to
 provide reasonable driving distance to the public emission
 inspection stations and reasonable waiting time at the public
 emission inspection stations to have vehicle emissions tested.

2 **2. Contract for services.** The department shall contract
4 with a private entity for the design, construction, equipment,
6 establishment, maintenance and operation of public emission
8 inspection stations and related services and functions. The
10 contractor and its officers and employees may not be engaged in
12 the business of selling, maintaining or repairing motor vehicles
14 or selling motor vehicle replacement or repair parts, except that
16 the contractor may repair any motor vehicle owned or operated by
the contractor. The contractor's employees are not employees of
the State for any purpose. Contracts must require the contractor
to operate the public emission inspection stations for a minimum
of 5 years and may provide for equitable compensation from the
Motor Vehicle Emission Inspection Fund, established by section
2408, subsection 1, for capital costs and other appropriate
expenditures to the contractor, as determined by the department.

18 **3. Inspection; issuance of certificate and reports.** A
20 public emission inspection station shall inspect and reinspect
22 motor vehicles in accordance with rules adopted under this
24 chapter and contracts. The public emission inspection station
26 shall issue a certificate of compliance for a motor vehicle that
28 has been inspected and determined to comply with the standards
and criteria adopted under this chapter. If a certificate of
compliance is not issued, the public emission inspection station
shall provide a written inspection report describing the reasons
for rejection and, when appropriate, the repairs needed or likely
to be needed to bring the vehicle into compliance with the
standards and criteria.

30 **§2405. Fleet emission inspection stations; license**

32 The Motor Vehicle Emission Inspection Program shall provide
34 for the licensing of fleet emission inspection stations by the
36 department.

38 **1. Fleet emission inspection station license.** A fleet
40 emission inspection station license authorizes and obligates the
licensee to perform inspections only on motor vehicles owned or
operated exclusively by the fleet licensee.

42 **2. Requirements for licenses.** Owners of a fleet of 10 or
44 more motor vehicles may apply for a fleet emission inspection
station license.

46 **3. Issuance of license.** After determining that an
48 applicant satisfies the requirements of this section and
department rules, the department shall issue a license to that
applicant upon payment of a licensing fee in a manner and amount
50 prescribed by the department.

2 4. Performance of inspection. A licensee shall have the
4 facilities, equipment and personnel to perform competently the
6 inspections required by this chapter and the rules of the
 department. A licensee shall provide for the inspection of each
 fleet vehicle in accordance with section 2402.

8 5. Maintenance of records. A licensee shall maintain
10 records of all inspections in a manner prescribed by the
12 department and make the records available for inspection by
 authorized representatives of the department during normal
 business hours.

14 6. Inspection at public emission inspection stations. To
16 ensure compliance, the department may require, by rule, fleet
18 licensees to submit a percentage of their motor vehicles
 designated by the department to inspection at public emission
 inspection stations.

20 **§2406. Prohibited acts**

22 1. Wrongful certification. A person may not issue a
24 certificate of compliance or waiver for a motor vehicle that has
26 not been inspected in accordance with or is not in compliance
 with the rules of the department.

28 2. Falsification of certification. A person may not alter,
 forge or counterfeit a certificate of compliance or waiver.

30 3. Alteration. A person may not materially alter or change
32 any equipment or mechanism of a motor vehicle that has been
34 certified to comply with the rules of the department so that the
 vehicle is no longer in compliance with those rules.

36 4. False repair costs. A person or repair facility may not
38 provide false information to a public emission inspection station
40 or the department about estimated or actual repair costs or
 repairs needed to bring a motor vehicle into compliance with the
 standards of the department. A person may not claim an amount
 spent for repair if the repairs were not made or the amount not
 spent.

42 5. Penalty. Any person who violates this section is guilty
44 of a Class D crime.

46 **§2407. Inspection fee**

48 1. Amount. A fee established in accordance with the rules
50 of the department is imposed for the cost of the inspection of a
52 motor vehicle at a public emission inspection station, the cost
 of the contract entered under section 2404, subsection 2 and the
 administrative costs of the department.

2 2. Payment. The fee must be paid for each motor vehicle
4 inspected at a public emission inspection station and is payable
whether the vehicle passes inspection or not. Each vehicle that
6 fails its initial inspection is entitled to one free inspection.
The fee must be paid to the public emission inspection station at
8 the time the vehicle is inspected. Any license fee for a fleet
emission inspection station as provided by section 2205 must be
paid to the department.

10
12 3. Delinquency charge. Motor vehicles inspected after the
14 expiration of the motor vehicle safety inspection date are
subject to a delinquency charge of \$10 for each month after the
16 expiration, which must be collected by the inspection contractor
and remitted to the department. Revenue generated from the
collection of delinquency charges must be deposited in the
General Fund.

18 **§2408. Motor Vehicle Emission Inspection Fund**

20
22 1. Establishment. The Motor Vehicle Emission Inspection
24 Fund, referred to in this section as the "fund," is established
as a nonlapsing fund. This fund may be used only to pay the
26 costs of the Motor Vehicle Emission Inspection Program, mobile
source emission-related activities and the costs the department
incurs to administer the program.

28 2. Revenue sources. The revenue from the following sources
30 must be deposited in the fund:

32 A. Money recovered by the State under section 2406 and
money paid under any agreement, stipulation or settlement;

34 B. Money received by the department in the form of gifts,
grants, reimbursement or appropriations from any source
36 intended to be used for the purpose of the fund;

38 C. Fleet emission inspection station license fees;

40 D. Interest attributable to investment of money deposited
in the fund; and

42
44 E. Proceeds of inspection fees.

46 **STATEMENT OF FACT**

48 The federal Clean Air Act Amendments of 1990, Public Law
50 101-549, require enhanced motor vehicle emissions inspection
programs in all metropolitan statistical areas that have a
population of 100,000 or more and are located in an ozone

2 transport region. In addition, the State must achieve a 15%
3 reduction in volatile organic compounds in all moderate ozone
4 nonattainment areas. This bill establishes the Motor Vehicle
5 Emission Inspection Program to be administered by the Department
6 of Environmental Protection but owned and operated by a
7 department-selected contractor. The fees charged for the
8 emissions tests will be placed in a dedicated revenue account and
be used to support the cost of the program.