

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

of expenditure, unless the commissioner finds the amount too small or the likelihood of recovery too uncertain. Requests by the department for reimbursement must be referred to the Maine Hazardous Waste Fund, if not paid within 30 days of demand, may be turned over to the Attorney General for collection or may be submitted to a collection agency or agent or an attorney retained by the department with the approval of the Attorney General pursuant to Title 5, section 191.

The commissioner may file a claim with or otherwise seek money from federal agencies to recover to the use of the fund all disbursements from the fund.

Sec. 35. Transition. Persons certified as Class 1 underground oil storage tank installers on the effective date of this Act are certified as Class 2 installers.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 6, 1992.

CHAPTER 818

H.P. 1645 - L.D. 2308

An Act to Establish the Motor Vehicle Emission Inspection Program

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

Sec. 1. 29 MRSA §2502, sub-§5 is enacted to read:

5. Emission inspection. After July 1, 1994, a motor vehicle required to be inspected pursuant to Title 38, chapter 28 and rules adopted pursuant to that chapter must have a valid certificate of inspection or waiver before a motor vehicle safety inspection may be conducted.

Sec. 2. 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 written document with a serial number indicating that a motor vehicle complies with rules adopted pursuant to this chapter.

2. Certificate of waiver. “Certificate of waiver” means a written document with a serial number that indicates the requirement of compliance with rules adopted pursuant to this chapter has been waived for a motor vehicle under section 2403.

3. Convenient public access. “Convenient public access” means reasonable driving distance to a public emission inspection station and reasonable waiting time at a public emission inspection station to have vehicle emissions tested.

4. Fleet emission inspection station. “Fleet emission inspection station” means a facility for the inspection of motor vehicle fleets operated pursuant to a license issued under section 2405.

5. Low-emission adjustment. “Low-emission adjustment” means the repair or adjustment of basic emission-related components or systems such as spark plugs, air-cleaner filter, choke, engine idle speed and engine timing.

6. Motor vehicle. “Motor vehicle” has the same meaning as provided under Title 29, section 1, subsection 7.

7. 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. After July 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 biennially for air pollution emissions as provided in this chapter and have a valid certificate of compliance or waiver before a motor vehicle safety inspection, required under Title 29, section 2502, may be conducted.

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

3. Inspection of certificate by law enforcement officer. When a law enforcement officer stops an operator or owner of a motor vehicle registered in this State for a moving violation, the officer shall request that the operator present the certificate of compliance or waiver if the motor vehicle is required to be inspected under this section.

A. If the operator does not have the certificate of compliance or waiver in or about the vehicle and fails to produce the certificate of compliance or waiver for a law enforcement officer, for a motor

vehicle required to be inspected for emissions at the time of safety inspection, this failure is prima facie evidence that the vehicle owner is in violation of this section and is subject to the penalties outlined in Title 29, section 2501.

B. If any person charged with a violation of this subsection exhibits to a law enforcement officer designated by the issuing officer no later than 24 hours before the 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.

4. Exempt vehicles. The following motor vehicles are exempt from the requirements of this section:

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

B. A motor vehicle having a gross vehicle weight rating of more than 10,000 pounds;

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

D. A motor vehicle with a model year less than 2 years prior to the current calendar year;

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

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

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

H. Motorcycles and mopeds as defined in Title 29, section 1 and autocycles as defined in the motor vehicle inspection manual adopted by the Department of Transportation.

5. Staggered inspection schedule. The board may adopt by rule a mechanism to stagger biennial inspections over the first 2 years of the Motor Vehicle Emission Inspection Program.

§2403. Motor Vehicle Emission Inspection Program

The Motor Vehicle Emission Inspection Program is established within the department to test and inspect motor vehicles that are subject to the requirements of section 2402 for air pollution emissions.

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

A. Specify maximum emission levels for motor vehicles, based on the levels of emissions necessary to achieve applicable federal and state ambient air quality standards. The standards may be different for different model years, sizes and types of motor vehicles;

B. Establish testing procedures and standards for test equipment used for inspection and on-road testing devices;

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

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

2. Repairs. Repairs or adjustments necessary to bring a vehicle into compliance with applicable emission limitations are the responsibility of the vehicle owner.

3. Certificate of waiver. A contractor operating a public emission inspection station shall issue a certificate of waiver for a vehicle, including a fleet vehicle, that fails to pass the designated emission standard upon an initial inspection and after repair or adjustment again fails to pass the emission if:

A. A low emission adjustment is performed on the vehicle; and

B. Either the estimated cost of repairs and adjustment necessary to bring the vehicle into compliance with emission 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 as specified in subsection 4.

4. Repair cost limit. The board shall establish by rule a repair cost limit consistent with the requirements of the federal Clean Air Act Amendments of 1990, Public Law 101-549 and federal regulation. In assessing the costs of repairs and adjustments included in the repair cost limit the following costs must be excluded:

A. Costs covered under warranty; and

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

§2404. Public emission inspection stations; contract

The Motor Vehicle Emission Inspection Program shall make available public emission inspection stations.

1. Public emission inspection stations. The board shall determine by rule performance standards for the number, location and size of the public emission inspection stations to provide convenient public access.

2. Contract for services. The commissioner shall contract with a private entity for the design, construction, equipping, establishment, maintenance and operation of public emission inspection stations and related services and functions. The contractor and its officers and employees may not be directly engaged in the business of selling, maintaining or repairing motor vehicles or selling motor vehicle replacement or repair parts, except that 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 commissioner.

3. Inspection. A public emission inspection station shall inspect and reinspect motor vehicles in accordance with rules adopted under this chapter.

4. Issuance of certificate and reports. A public emission inspection station shall issue a certificate of compliance for a motor vehicle that has been inspected and determined to comply with the rules 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 recommended to bring the vehicle into compliance with the standards and criteria.

§2405. Fleet emission inspection stations; license

The department may license fleet emission inspection stations.

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

2. Requirements for licenses. Owners of a fleet of 10 or more motor vehicles may apply for a fleet emission inspection station license. In addition, a motor vehicle dealership may apply for a fleet emission inspection station license.

3. Issuance of license. After determining that an 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 prescribed by the commissioner. This license fee must be based on the administrative costs to the department.

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

5. Maintenance of records. A licensee must maintain records of all inspections in a manner prescribed by the commissioner and make the records available for inspection by authorized representatives of the commissioner during normal business hours.

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

7. Issuance of certificate of compliance. A fleet licensee may issue a certificate of compliance for motor vehicles owned or operated by the licensee that have been inspected and determined to comply with the requirements of this chapter. A fleet licensee must apply and be tested by a public emission inspection station for a certificate of waiver.

§2406. Prohibited acts

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

2. Wrongful waiver. A person may not issue a certificate of waiver for a motor vehicle that has not been inspected in accordance with this chapter and has not met the criteria of section 2403, subsection 3.

3. Falsification of certification. A person may not falsely create, make, alter or complete a certificate of compliance or waiver.

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

5. False repair costs. A person or repair facility may not misrepresent to a public emission inspection station or the commissioner the estimated or actual re-

pair costs or repairs needed to bring a motor vehicle into compliance with the rules of the department.

6. Penalty. In addition to any penalties under section 349, subsection 2, any person who violates this section is guilty of a Class D crime.

§2407. Inspection fee

1. Amount. The board shall establish by rule an inspection fee to cover the cost of the inspection of a motor vehicle at a public emission inspection station, the cost of services rendered as part of the contract entered under section 2404, subsection 2 and the administrative costs of the department. The inspection fee may not exceed \$30 per vehicle.

2. Payment. The fee must be paid for each motor vehicle inspected at a public emission inspection station at the time of inspection and is payable whether the vehicle passes inspection or not. Each vehicle that fails its initial inspection is entitled to one free inspection.

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

4. Inspection fee waived. The board shall establish, by rule, an exemption from the inspection fee under this section for those persons for whom, in its judgment, the fee poses an unreasonable economic burden. In establishing the rule, the board shall consult with the Maine Community Action Association and other representatives of low-income people. The Motor Vehicle Emission Fund must absorb all costs associated with this waiver.

§2408. Motor Vehicle Emission Inspection Fund

1. Establishment. The Motor Vehicle Emission Inspection Fund, referred to in this section as the "fund," is established as a nonlapsing fund. The commissioner may use this fund only to pay the costs of and to administer the Motor Vehicle Emission Inspection Program and mobile source emission-related activities of the department.

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

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

B. Fleet emission inspection station license fees;

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

D. Proceeds of inspection fees.

Sec. 3. Costs not funded. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

Sec. 4. Low-mileage waiver proposal. On or before January 15, 1993, the Commissioner of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a proposal to establish a waiver from the provisions of the Maine Revised Statutes, Title 38, section 2402 for vehicles that are driven less than 10,000 miles during the biennial inspection period. The proposal must include feasible administrative mechanisms for verification and enforcement.

See title page for effective date.

CHAPTER 819

H.P. 1519 - L.D. 2131

An Act Relating to Unredeemed Deposits

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

Sec. 1. 28-A MRSA §1651, sub-§1, ¶C, as affected by PL 1989, c. 869, Pt. C, §12, is amended to read:

C. The commission shall add any cost to the State, related to handling containers returned for refund pursuant to Title 32, section ~~1863~~ 1863-A, to the established price without markup.

Sec. 2. 32 MRSA §1863, as amended by PL 1991, c. 591, Pt. R, §1, is repealed.

Sec. 3. 32 MRSA §§1863-A and 1863-B are enacted to read:

§1863-A. Refund value

To encourage container reuse and recycling, every beverage container sold or offered for sale to a consumer in this State must have a deposit and refund value. The deposit and refund value are determined according to the provisions of this section.