



HOUSE BILL No. 4165

February 4, 1993, Introduced by Reps. Brown, Gubow, Rivers, Leland, Dolan and Varga and referred to the Committee on Transportation.

A bill to establish a mandatory motor vehicle emissions inspection and maintenance program for certain motor vehicles; to prescribe the powers and duties of certain state agencies and officials; to provide for the promulgation of rules; to prescribe certain fees; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts on a specific date.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan vehicle emission inspection and maintenance act".

3 Sec. 2. For the purposes of the act, the words and phrases
4 contained in sections 3 to 5 have the meanings ascribed to them
5 in those sections.

6 Sec. 3. (1) "Alternative fuel" means the following fuel
7 sources used to propel a motor vehicle:

1 (a) Compressed natural gas.

2 (b) Diesel fuel.

3 (c) Electric power.

4 (d) Propane.

5 (e) Any other source as defined by rule promulgated by the
6 department.

7 (2) "Certificate of compliance" means a serially numbered
8 written instrument or document that is issued to the owner of a
9 motor vehicle upon passing an inspection or reinspection and is
10 evidence that the motor vehicle complies with the standards and
11 criteria adopted by the department of natural resources under
12 this act.

13 (3) "Certificate of waiver" means a serially numbered writ-
14 ten document or sticker indicating that the standards and cri-
15 teria of the department have been met for a motor vehicle pursu-
16 ant to the requirements of this act.

17 (4) "Clean air act" means chapter 360, 69 Stat. 322, 42
18 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a,
19 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to
20 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617,
21 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to
22 7661f, and 7671 to 7671q. Clean air act includes the regulations
23 promulgated under the clean air act.

24 (5) "Consumer protection" means protecting the public from
25 unfair or deceptive practices.

1 (6) "Contractor" means a person who enters into a contract
2 with the department to operate public motor vehicle inspection
3 stations under this act.

4 (7) "Cut point" means the level of pollutants emitted that
5 is used in determining whether a particular make and model of
6 motor vehicle passes or fails all or a part of an inspection.

7 (8) "Department" means the state transportation department.

8 Sec. 4. (1) "Emission control device" means a catalytic
9 converter, thermal reactor, or other component part used by a
10 vehicle manufacturer to reduce emissions or to comply with emis-
11 sion standards prescribed by regulations promulgated by the
12 United States environmental protection agency under the clean air
13 act.

14 (2) "Fleet" means 10 or more motor vehicles owned or leased
15 by 1 person.

16 (3) "Fleet inspection station" means a facility for the
17 inspection of motor vehicle fleets operated under license issued
18 by the department under section 12.

19 (4) "Inspection" means testing of a motor vehicle for com-
20 pliance with emission control requirements of this act and the
21 clean air act.

22 (5) "Maintenance" means the repair or adjustment of a motor
23 vehicle to bring that motor vehicle into compliance with emission
24 control requirements of this act and rules promulgated under this
25 act.

26 (6) "Motor vehicle" means a self-propelled vehicle as
27 defined in section 79 of the Michigan vehicle code, Act No. 300

1 of the Public Acts of 1949, being section 257.79 of the Michigan
2 Compiled Laws, of 10,000 pounds or less gross vehicle weight,
3 unless the gross vehicle weight is modified by rules, which is
4 required to be registered for use upon the public streets and
5 highways of this state under the Michigan vehicle code, Act
6 No. 300 of the Public Acts of 1949, being sections 257.1 to
7 257.923 of the Michigan Compiled Laws. For purposes of this act,
8 motor vehicle includes those vehicles owned by the government of
9 the United States, this state, and any political subdivision of
10 this state.

11 (7) "National ambient air quality standards" means the air
12 quality standards for outside air as established in the clean air
13 act.

14 Sec. 5. (1) "Person" means an individual, partnership, cor-
15 poration, association, governmental entity, or other legal
16 entity.

17 (2) "Pollutants" means nitrogen oxides, carbon monoxide,
18 hydrocarbons, and other toxic substances emitted from the opera-
19 tion of a motor vehicle.

20 (3) "Public inspection station" means a facility for motor
21 vehicle inspection operated under contract with the department as
22 provided in section 11.

23 (4) "Rules" means rules promulgated pursuant to the adminis-
24 trative procedures act of 1969, Act No. 306 of the Public Acts of
25 1969, being sections 24.201 to 24.328 of the Michigan Compiled
26 Laws.

1 (5) "Tamper with" means to remove or render inoperative, or
2 cause to be removed or rendered inoperative, or to make less
3 operative, an emission control device, or an element of an emis-
4 sion control device that is required by the clean air act to be
5 installed in or on a motor vehicle.

6 Sec. 6. (1) A person shall not operate a motor vehicle that
7 fails to meet emission cut points established by the department
8 or other emission control requirements established by the depart-
9 ment in this act or rules promulgated under this act. To enforce
10 this section, the department shall establish a biennial motor
11 vehicle inspection program using an exhaust emission test type
12 for an enhanced inspection and maintenance program as determined
13 by the United States environmental protection agency according to
14 the following schedule:

15 (a) By January 1, 1994, counties that have previously been
16 subject to a motor vehicle emission inspection and maintenance
17 program, also known as auto exhaust testing.

18 (b) By January 1, 1995, counties containing areas designated
19 by the United States environmental protection agency pursuant to
20 the clean air act as moderate, serious, severe, or extreme nonat-
21 tainment areas that have not previously been subject to a motor
22 vehicle emission inspection and maintenance program, also known
23 as auto exhaust testing, and that are contiguous to counties that
24 have previously been subject to a motor vehicle emission inspec-
25 tion and maintenance program, also known as auto exhaust
26 testing.

1 (c) By January 1, 1996, other counties containing areas
2 designated by the United States environmental protection agency
3 as moderate, serious, severe, or extreme nonattainment areas that
4 have not previously been subject to a motor vehicle emission
5 inspection and maintenance program.

6 (d) After January 1, 1996, counties containing areas newly
7 designated by the United States environmental protection agency
8 as moderate, serious, severe, or extreme nonattainment areas that
9 have not previously been subject to a motor vehicle emission
10 inspection and maintenance program by January 1 of the year fol-
11 lowing that designation.

12 (e) By January 1, 2000, counties that contain areas desig-
13 nated by the United States environmental protection agency pursu-
14 ant to the clean air act as nonattainment areas for ozone that
15 are not classified as moderate, serious, severe, or extreme non-
16 attainment areas.

17 (2) The department of natural resources by rule may deter-
18 mine whether implementation of the vehicle emission inspection
19 program is necessary earlier than the date provided for in
20 subsection (1)(e) in order to protect the health and environment
21 of the citizens of this state and to meet the requirements of the
22 clean air act.

23 (3) The department, in consultation with the department of
24 state and the department of natural resources, shall promulgate
25 rules for the administration of the inspection and maintenance
26 program, including, but not limited to:

1 (a) Standards for public and fleet inspection station
2 equipment, including emission testing equipment.

3 (b) Emission test cut points and other emission control
4 requirements based on the clean air act and the state implementa-
5 tion plan.

6 (c) Exemptions from inspections as authorized under this
7 act.

8 (d) Standards and procedures for the issuance of licenses
9 for fleet inspection stations.

10 (e) Standards and procedures for the issuance of certificate
11 of compliance and certificates of waiver from inspection and
12 maintenance program requirements.

13 (f) Rules to ensure that owners of motor vehicles registered
14 in this state who temporarily reside out of state are not unduly
15 inconvenienced by the requirements of this act. The rules may
16 include:

17 (i) Reciprocal agreements with other states that require
18 motor vehicle inspections that are at least as stringent as those
19 required under this act and rules promulgated under this act.

20 (ii) Temporary waivers.

21 (4) The department may promulgate rules to require the
22 inspection of motor vehicles through the use of on-road testing
23 devices. If such rules are promulgated, the rules shall specify
24 the methods and procedures to be used in on-road testing.

25 (5) Upon receipt of documentation from the department, the
26 department of state may suspend the registration of any vehicle
27 that is not in compliance with this act and the rules promulgated

1 under this act and has not obtained the required certificate of
2 compliance.

3 Sec. 8. (1) The department shall not renew the registration
4 of a motor vehicle subject to this act unless the vehicle has
5 been inspected as provided in this act and a certificate of com-
6 pliance or a certificate of waiver has been issued.

7 (2) Certificates of compliance and certificates of waiver
8 issued under this act are valid for 2 years.

9 (3) If not exempted by this act or rules promulgated under
10 this act, a person shall not drive a motor vehicle registered in
11 an area required to have a vehicle emission and maintenance pro-
12 gram without a valid certificate of compliance or certificate of
13 waiver.

14 Sec. 9. The following vehicles are exempt from the inspec-
15 tion requirements of this act:

16 (a) A motor vehicle manufactured before the 1975 model
17 year.

18 (b) Vehicles that are licensed as historic vehicles under
19 section 803a of the Michigan vehicle code, Act No. 300 of the
20 Public Acts of 1949, being section 257.803a of the Michigan
21 Compiled Laws.

22 (c) Motor vehicles that are exempted by rules promulgated by
23 the department because of prohibitive inspection problems or
24 inappropriateness for inspection.

25 (d) A motor vehicle that has as its only fuel source an
26 alternative fuel.

1 Sec. 10. Inspections required under this act shall be
2 performed at public or fleet inspection stations. This act shall
3 provide for the inspection of motor vehicles at public inspection
4 stations. The number and locations of the stations shall provide
5 convenient public access and shall be consistent with all of the
6 following:

7 (a) The average waiting time for an inspection shall not
8 exceed 15 minutes more than 5 days in any 1 month.

9 (b) A person shall not be required to make an appointment
10 for a vehicle inspection.

11 (c) There shall be adequate queuing space for each inspec-
12 tion lane at each inspection station to accommodate, on the sta-
13 tion property, all motor vehicles waiting for inspection.

14 Sec. 11. (1) The department shall direct the contractors as
15 follows:

16 (a) Establish requirements for inspection stations.

17 (b) Enter into negotiated multi-year contracts of not less
18 than 5 years of test operation with a private contractor for the
19 performance of inspections, with option for renewal. A contract
20 shall provide penalties for failure to perform under the provi-
21 sions of the contract.

22 (c) Supervise the performance of its contractors.

23 (2) The department shall not enter into a contract to con-
24 duct emissions and maintenance inspections with any contractor
25 who also does any of the following:

26 (a) Manufactures or sells motor vehicles or motor vehicle
27 parts or leases motor vehicles in this state.

1 (b) Performs motor vehicle maintenance or repair services
2 for profit in this state. This subdivision does not apply to a
3 contractor who maintains or repairs motor vehicles owned or
4 leased by the contractor.

5 (c) Lacks the capacity, resources, or technical and manage-
6 ment skills to adequately construct, equip, operate, and maintain
7 a sufficient number of official inspection stations to meet the
8 demand for the inspections required by this act and who fails to
9 meet the requirements for convenient public access.

10 (3) The department shall seek to obtain the highest quality
11 service for the lowest cost through a competitive evaluation pro-
12 cess for contractors.

13 (4) The department shall provide adequate public notice of
14 the requests for proposals by advertising in a newspaper of gen-
15 eral circulation in the state not later than the effective date
16 of this act. The department shall award the contract with rea-
17 sonable promptness by written notice to the responsible offeror
18 whose proposal has been evaluated and is determined to be the
19 most advantageous to the state, taking into consideration the
20 requirements of this act and rules promulgated under this act, or
21 as otherwise required by the department of management and
22 budget.

23 (5) In addition to the other requirements of this act, the
24 director shall give balanced consideration during the contractor
25 evaluation process to all of the following factors:

1 (a) The public convenience of the inspection station,
2 including the provisions for average mileage to an inspection
3 station and the waiting time at a station.

4 (b) The inspection bid submitted by the contractor.

5 (c) The degree of technical content of the proposal includ-
6 ing test-accuracy specifications and quality of testing services,
7 and the data and methodology used to prepare the network design
8 and other technological aspects of the proposal.

9 (d) The experience of the contractor and the probability of
10 a successful performance by the contractor.

11 (e) The financial stability of the contractor. The depart-
12 ment may make reasonable inquiries to determine the financial
13 stability of an offeror. The failure of an offeror to promptly
14 supply information in connection with such an inquiry is grounds
15 for a determination of nonresponsibility with respect to that
16 offeror.

17 (6) In addition to any other provisions of this act, the
18 contract authorized by this section shall contain all of the fol-
19 lowing provisions:

20 (a) The minimum requirements for adequate staff, equipment,
21 management, and hours of operation of inspection stations.

22 (b) The submission of reports and documentation concerning
23 the operation of official inspection stations as required by
24 rules promulgated under this act.

25 (c) Surveillance by the department of state police to ensure
26 compliance with vehicular emissions standards, procedures, rules,
27 regulations, and laws.

1 (7) A public inspection station shall inspect and reinspect
2 motor vehicles in accordance with the rules promulgated under
3 this act by the department. The inspection station shall issue a
4 certificate of compliance for a motor vehicle that has been
5 inspected and determined to comply with the standards and cri-
6 teria of the department pursuant to the rules promulgated under
7 section 6. If a certificate of compliance is not issued, the
8 inspection station shall provide a written inspection report
9 describing the reason for rejection and, if appropriate, the
10 repairs needed or likely to be needed to bring the vehicle into
11 compliance with the standards and criteria.

12 (8) The department directly or by contract shall implement
13 continuing education programs to begin 6 months prior to the com-
14 mencement of the public inspection program in a county. A con-
15 tinuing education program shall consist of a component designed
16 to educate the general public about the inspection and mainte-
17 nance program and a component to train those who will perform
18 maintenance requirements under this act.

19 Sec. 12. (1) The department shall provide for the licensing
20 of fleet inspection stations.

21 (2) A license for a fleet inspection station shall be issued
22 by the department upon payment of a license fee in the manner and
23 in the amount prescribed by the department after the department
24 has determined that the applicant satisfies the requirements of
25 this section and the rules implementing this section as promul-
26 gated by the department.

1 (3) Owners or lessees of a fleet of 10 or more vehicles may
2 apply to the department for a fleet inspection station license.

3 (4) A licensed fleet inspection station shall have the
4 facilities, equipment, and personnel to competently perform the
5 inspections required by the rules promulgated by the department.
6 The licensee shall provide for the inspection of each fleet vehi-
7 cle in accordance with the requirements of rules promulgated
8 under this act and shall indicate in a manner prescribed by the
9 department whether the vehicle complies with the emissions stan-
10 dards established by the department.

11 (5) A fleet inspection station license authorizes and obli-
12 gates the licensee to perform inspections only on motor vehicles
13 owned or operated exclusively by the fleet licensee.

14 (6) A fleet inspection station licensee shall maintain
15 records of all inspections in a manner prescribed by the depart-
16 ment and shall make the records available for inspection by
17 authorized representatives of the department during normal busi-
18 ness hours.

19 (7) To ensure compliance, the department may require fleet
20 licensees to submit the greater of 10% or 5 vehicles to annual
21 inspections at public inspection stations.

22 (8) The department shall be responsible for testing of the
23 test vehicle used by the licensee.

24 Sec. 13. (1) A certificate of waiver shall be issued for a
25 motor vehicle following inspection if either the estimated cost
26 of maintenance necessary to bring the vehicle into compliance
27 with emissions standards or the actual cost of maintenance

1 already performed on a vehicle in accordance with the inspection
2 report is at least \$200.00 adjusted annually by the increase or
3 decrease in the Detroit consumer price index.

4 (2) The costs covered by vehicle warranty and the costs nec-
5 essary to repair or replace any emission control equipment that
6 has been removed, dismantled, tampered with, misfueled, or other-
7 wise rendered inoperative shall not be considered in determining
8 eligibility for a certificate of waiver pursuant to subsection
9 (1).

10 (3) Issuance of a certificate of waiver shall be conditioned
11 upon meeting the criteria established by regulations promulgated
12 by the United States environmental protection agency at 40
13 C.F.R. 51.360.

14 (4) A temporary certificate of waiver, valid for not more
15 than 15 days, may be issued to a motor vehicle to allow time for
16 necessary maintenance and reinspection. A temporary certificate
17 of waiver may be issued not more than twice for the same motor
18 vehicle.

19 (5) A person shall submit an estimate of the cost of repairs
20 which includes the individual, business or company name, address,
21 city, state, and telephone number on the estimate or receipt for
22 maintenance to demonstrate the estimated or actual cost of
23 maintenance.

24 Sec. 14. (1) The department shall evaluate, inspect, and
25 monitor the inspection and maintenance program established under
26 this act to ensure proper and accurate emission, inspection, and

1 maintenance results. The department shall be responsible for
2 issuance of certificates of waiver under section 13.

3 (2) The department shall compile data and undertake studies
4 necessary to evaluate the cost, effectiveness, and benefits of
5 the motor vehicle inspection program. The department shall com-
6 pile data on failure rate, compliance rate, the number of certif-
7 icates issued, and other similar matters. The department shall
8 make an annual report on the operation of the motor vehicle
9 inspection program to the standing committees of the legislature
10 that primarily address issues pertaining to public health or pro-
11 tection of the environment by January 1, 1995, and each year
12 thereafter.

13 Sec. 15. A contractor or a fleet inspection license holder
14 shall not issue a certificate of compliance for a motor vehicle
15 that has not been inspected and has not met or exceeded emission
16 cut points established by the department in accordance with this
17 act and the rules promulgated under this act.

18 Sec. 16. An employee, owner, or operator of a public
19 inspection station shall not furnish information, except informa-
20 tion provided by the state, about the name or other description
21 of a repair facility or other place where maintenance may be
22 obtained.

23 Sec. 17. A person shall not tamper with a motor vehicle
24 that has been certified to comply with this act and the rules
25 promulgated under this act so that the motor vehicle is no longer
26 in compliance.

1 Sec. 18. A person shall not provide false information to a
2 public inspection station or the department of state about
3 estimated or actual repair costs or repairs needed to bring a
4 motor vehicle into compliance. A person shall not claim an
5 amount spent for repair if the repairs were not made or the
6 amount not spent.

7 Sec. 19. (1) The department, in consultation with the
8 department of state, may establish an inspection fee, not to
9 exceed \$25.00 adjusted annually by the percentage increase or
10 decrease in the Detroit consumer price index.

11 (2) The department, in consultation with the department of
12 state, shall include within the inspection fee or other funding
13 source as provided by law an amount equal to the cost to be
14 incurred by the department and the department of state in admin-
15 istering and enforcing the inspection and maintenance program.

16 (3) The contractor shall be reimbursed from proceeds of the
17 inspection fee or other funding source as provided by law.

18 (4) Two dollars of the inspection fee or other funding
19 source as provided by law shall be allocated to the department of
20 state police for its surveillance responsibilities under this
21 act. The department of state police shall conduct not less than
22 2 covert inspections and not less than 1 overt inspection per
23 year for each testing lane at an inspection station.

24 (5) By the fifteenth day of each month, each inspection sta-
25 tion shall remit to the department of treasury the amount of
26 every inspection fee collected for the preceding month.

1 Sec. 20. (1) A person who violates section 15 or forges,
2 counterfeits, or alters an inspection certificate or who
3 knowingly possesses an unauthorized inspection certificate, is
4 guilty of a misdemeanor, punishable by imprisonment for a term
5 not to exceed 1 year or by a fine not to exceed \$1,000.00. Each
6 violation constitutes a separate offense.

7 (2) Except as otherwise provided in subsection (1), a person
8 who violates section 16, 17, or 18 is guilty of a misdemeanor.

9 (3) A person who drives a motor vehicle in violation of this
10 act or rules promulgated under this act is subject to a civil
11 fine of not more than \$100.00. Each violation constitutes a sep-
12 arate offense.

13 Sec. 21. Act No. 83 of the Public Acts of 1980, being sec-
14 tions 257.1051 to 257.1074 of the Michigan Compiled Laws, is
15 repealed effective January 1, 1994.