

ASSEMBLY BILL

No. 255

**Introduced by Assembly Members De Leon, DeSaulnier, and
Huffman**

February 5, 2007

An act to amend Section 44060 of, to add Article 8 (commencing with Section 43900) to Chapter 4 of Part 5 of Division 26 of, and to repeal Section 44091.1 of, the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 255, as introduced, De Leon. Air pollution: Clean Air and Energy Independence Fund: smog abatement fee.

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. The State Air Resources Board is the state agency with primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts have primary responsibility for the control of air pollution from all sources other than vehicular sources.

This bill would create the Clean Air and Energy Independence Fund, and would continuously appropriate moneys in the fund to the state board to be used towards specified purposes, including incentives for alternative fuel and alternative fuel vehicles. The bill would require the state board to submit an annual report to the Legislature on expenditures from the Clean Air and Energy Independence Fund.

(2) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides

for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances.

Existing law exempts from those requirements any motor vehicle 4 or less model-years old and also exempts any motor vehicle up to 6 model-years old, unless the state board determines that the exemption would prohibit the state from meeting the requirements of the federal Clean Air Act.

Existing law subjects any motor vehicle exempted from the smog check requirements that is 4 or less model-years old to a smog abatement fee of \$12 and authorizes the department to impose that fee on motor vehicles that are 5 or 6 model-years old, if the department expands the exemption from the smog check requirements to include those motor vehicles. The revenues from \$6 of the fee are deposited in the Air Pollution Control Fund, and those moneys are available, upon appropriation, to fund the Carl Moyer Air Quality Standards Attainment Program, to the extent the state board or a participating district determines the moneys are expended to mitigate or remediate the harm caused by the type of motor vehicle on which the fee is imposed. Except as specified, of the revenue generated by the remaining \$6 of the fee, the revenue from \$4 of the fee is required to be deposited in the High Polluter Repair or Removal Account, and the revenue from \$2 of the fee is required to be deposited in the Vehicle Inspection and Repair Fund.

This bill would increase the smog abatement fee from \$12 to \$16, and would allocate the \$4 increase to the Clean Air and Energy Independence Fund.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Air pollution causes cancer, asthma, bronchitis, and many
- 4 other illnesses.
- 5 (b) Children are particularly vulnerable to smog and are
- 6 disproportionately affected by air pollution. In Los Angeles County
- 7 alone, asthma is responsible for over 12,000 hospitalizations every

1 year, with most of these patients being children. In many areas of
2 the state asthma has become the most common reason for
3 elementary school children to miss school due to illness. Since
4 1980, asthma prevalence among children in California has
5 increased 75 percent. When children have trouble getting sufficient
6 oxygen, they are less able to concentrate and learn in the classroom.
7 Children living near or attending schools near high-traffic roadways
8 face a much greater risk of asthma than children living elsewhere.
9 As a result, poorer children are at the greatest risk of these illnesses.

10 (c) Air pollution causes loss in worker productivity and hospital
11 visits costing the state and the economy billions of dollars every
12 year.

13 (d) Dependence on foreign oil for our energy needs puts the
14 state's economy at undue risk for disruption and threatens the
15 long-term strength of the economy.

16 (e) Automobiles emit greenhouse gas pollutants that are
17 threatening the global environment and posing catastrophic damage
18 to the state.

19 (f) It is the intent of the Legislature that the Clean Air and
20 Energy Independence Fund as created by this act will negate these
21 impacts.

22 SEC. 2. Article 8 (commencing with Section 43900) is added
23 to Chapter 4 of Part 5 of Division 26 of the Health and Safety
24 Code, to read:

25
26 Article 8. Clean Air and Energy Independence Fund
27

28 43900. The Clean Air and Energy Independence Fund is hereby
29 created to be administered by the state board. All moneys in the
30 fund are continuously appropriated, without regard to fiscal years,
31 to the state board and may be used as specified in Section 43901.

32 43901. (a) The Clean Air and Energy Independence Fund may
33 be used for all of the following purposes:

34 (1) Market-based incentives for the purchase of high efficiency,
35 high mileage, clean alternative fuel for light, medium, and heavy
36 duty vehicles, both individual and public fleet, including, but not
37 limited to, buydowns, rebates, credits, and other incentives.

38 (2) Production incentives, including loans, loan guarantees, and
39 credits, for clean alternative fuel production within the state.

1 (3) Market-based incentives for the construction of publicly
2 accessible clean alternative fueling stations.

3 (4) Grants for research and development of clean and zero
4 emission fuels and vehicle technology to assist in making these
5 technologies more affordable.

6 (5) Incentives to replace the current state vehicle fleet with
7 clean, high mileage alternative fuel vehicles.

8 (b) The Clean Air and Energy Independence Fund shall not be
9 used to support the development of fuels derived from petroleum,
10 petroleum coke, or coal.

11 43903. On March 1, 2009, and annually thereafter, the state
12 board shall submit a report to the Legislature on expenditures from
13 the Clean Air and Energy Independence Fund, including an analysis
14 of how these expenditures are currently reducing emissions, and
15 a forecast of the programs' impact on emissions reductions for the
16 following five years.

17 SEC. 3. Section 44060 of the Health and Safety Code is
18 amended to read:

19 44060. (a) The department shall prescribe the form of the
20 certificate of compliance or noncompliance, repair cost waivers,
21 and economic hardship extensions.

22 (b) The certificates, repair cost waivers, and economic hardship
23 extensions shall be in the form of an electronic entry filed with the
24 department, the Department of Motor Vehicles, and any other
25 person designated by the department. The department shall ensure
26 that the motor vehicle owner or operator is provided with a written
27 report, signed by the licensed technician who performed the
28 inspection, of any test performed by a smog check station,
29 including a pass or fail indication, and written confirmation of the
30 issuance of the certificate.

31 (c) (1) The department shall charge a fee to a smog check
32 station, including a test-only station, and a station providing referee
33 functions, for a motor vehicle inspected at that station that meets
34 the requirements of this chapter and is issued a certificate of
35 compliance, a certificate of noncompliance, repair cost waiver, or
36 economic hardship extension.

37 (2) The fee charged pursuant to paragraph (1) shall be calculated
38 to recover the costs of the department and any other state agency
39 directly involved in the implementation, administration, or
40 enforcement of the motor vehicle inspection and maintenance

1 program, and shall not exceed the amount reasonably necessary
2 to fund the operation of the program, including all responsibilities,
3 requirements, and obligations imposed upon the department or
4 any of those state agencies by this chapter, that are not otherwise
5 recoverable by fees received pursuant to Section 44034.

6 (3) Except for adjustments to reflect changes in the Consumer
7 Price Index, as published by the United States Bureau of Labor
8 Statistics, the fee for each certificate, waiver, or extension shall
9 not exceed seven dollars (\$7).

10 (4) Fees collected by the department pursuant to this subdivision
11 shall be deposited in the Vehicle Inspection and Repair Fund. It
12 is the intent of the Legislature that a prudent surplus be maintained
13 in the Vehicle Inspection and Repair Fund.

14 (d) (1) Motor vehicles exempted under paragraph (4) of
15 subdivision (a) of Section 44011 shall be subject to an annual smog
16 abatement fee of ~~twelve dollars (\$12)~~ *sixteen dollars (\$16)*. The
17 department may also, by regulation, subject motor vehicles that
18 are exempted under paragraph (5) of subdivision (a) of Section
19 44011 to the ~~twelve dollar (\$12)~~ *sixteen dollar (\$16)* annual smog
20 abatement fee. Payment of the annual smog abatement fee shall
21 be made to the Department of Motor Vehicles at the time of
22 registration of the motor vehicle.

23 (2) ~~Except as provided in subdivision (a) of Section 44091.1,~~
24 ~~fees~~ Fees collected pursuant to this subdivision shall be deposited
25 ~~on a daily basis into the Vehicle Inspection and Repair Fund, as~~
26 ~~follows:~~

27 (A) *The revenues generated by six dollars (\$6) of the fee shall*
28 *be deposited in the Air Pollution Control Fund, and shall be*
29 *available for expenditure, upon appropriation by the Legislature,*
30 *to fund the Carl Moyer Memorial Air Quality Standards Attainment*
31 *Program (Chapter 9 (commencing with Section 44275)) to the*
32 *extent that the state board or a participating district determines*
33 *the moneys are expended to mitigate or remediate the harm caused*
34 *by the type of motor vehicle on which the fee is imposed.*

35 (B) *The revenues generated by four dollars (\$4) of the fee shall*
36 *be deposited in the Clean Air and Energy Independence Fund*
37 *created by Section 43900.*

38 (C) (i) *Except as provided in clause (ii), of the revenue*
39 *generated by the remaining six dollars (\$6) of the fee, four dollars*
40 *(\$4) shall be deposited in the High Polluter Repair or Removal*

1 *Account created by Section 44091, while the revenue generated*
2 *by the remaining two dollars (\$2) shall be deposited in the Vehicle*
3 *Inspection and Repair Fund.*

4 (ii) *All revenue generated by the remaining six dollars (\$6) of*
5 *the fee that is imposed at first registration of a motor vehicle and*
6 *that is exempted under paragraph (4) of subdivision (a) of Section*
7 *44011 shall be deposited in the High Polluter Repair or Removal*
8 *Account created by Section 44091.*

9 (e) The sale or transfer of the certificate, waiver, or extension
10 by a licensed smog check station or test-only station to any other
11 licensed smog check station or to any other person, and the
12 purchase or acquisition of the certificate, waiver, or extension, by
13 any person, other than from the department, the department's
14 designee, or pursuant to a vehicle's inspection or repair conducted
15 pursuant to this chapter, is prohibited.

16 (f) Following implementation of the electronic entry certificate
17 under subdivision (b), the department may require the modification
18 of the analyzers and other equipment required at smog check
19 stations to prevent the entry of a certificate that has not been issued
20 or validated through prepayment of the fee authorized by
21 subdivision (c).

22 (g) The fee charged by licensed smog check stations to
23 consumers for a certificate, waiver, or extension shall be the same
24 amount that is charged by the department.

25 SEC. 4. Section 44091.1 of the Health and Safety Code is
26 repealed.

27 ~~44091.1. Commencing January 1, 2005, the fee specified in~~
28 ~~paragraph (1) of subdivision (d) of Section 44060 shall be twelve~~
29 ~~dollars (\$12). The revenues from that fee shall be allocated as~~
30 ~~follows:~~

31 ~~(a) The revenues generated by six dollars (\$6) of the fee shall~~
32 ~~be deposited in the Air Pollution Control Fund, and shall be~~
33 ~~available for expenditure, upon appropriation by the Legislature,~~
34 ~~to fund the Carl Moyer Memorial Air Quality Standards Attainment~~
35 ~~Program (Chapter 9 (commencing with Section 44275)) to the~~
36 ~~extent that the state board or a participating district determines the~~
37 ~~moneys are expended to mitigate or remediate the harm caused by~~
38 ~~the type of motor vehicle on which the fee is imposed.~~

39 ~~(b) (1) Except as provided for in paragraph (2), of the revenue~~
40 ~~generated by the remaining six dollars (\$6) of the fee, four dollars~~

1 ~~(\$4) shall be deposited in the account created by Section 44091,~~
2 ~~while the revenue generated by the remaining two dollars (\$2)~~
3 ~~shall be deposited in the Vehicle Inspection and Repair Fund.~~
4 ~~(2) All revenue generated by the remaining six dollars (\$6) of~~
5 ~~the fee described in this subdivision that is imposed at first~~
6 ~~registration of a motor vehicle and that is exempted under~~
7 ~~paragraph (4) of subdivision (a) of Section 44011 shall be deposited~~
8 ~~in the account created by Section 44091.~~

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