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STATE OF COLORADO

Bill B

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LLS NO. 03-0065.02 Jery Payne

HOUSE BILL

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A BILL FOR AN ACT

101 **CONCERNING EMISSIONS TESTING FOR DIESEL VEHICLES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Transportation Legislation Review Committee. Changes the definition of a heavy-duty diesel vehicle from a vehicle that exceeds 7,500 pounds empty weight to a vehicle that exceeds 14,000 pounds gross vehicle weight rating. Defines light-duty diesel vehicle.

Increases the model year exemption from 2 to 4 years for heavy-duty diesel vehicles and decreases test frequency to biennial testing for heavy-duty vehicles that are equal to or less than 10 model years old and at least model year 1995. Requires testing of all diesel vehicles routinely operated in the program area, not just those registered, required

to be registered, or housed in the program area. Allows the use of an automated testing protocol as an option for fleet heavy-duty vehicles equal to or less than 10 model years old. Eliminates visual testing for heavy-duty vehicles in the fleet program for vehicles greater than 10 model years old.

Authorizes the transfer of ownership of a diesel vehicle from the lessor to the lessee without an emissions test during the first 4 model years of the vehicle's life. Changes from 50% to 40% for less than one second the peak smoke opacity limit that may be promulgated by the air quality control commission.

Authorizes a trained peace officer to perform a snap acceleration opacity test to determine if a person has committed the offense of polluting the air. Repeals a clause that allows a person who has received a complaint for polluting the air to avoid the penalty if such person repairs or decommissions the offending diesel vehicle.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 42-4-414 (1) and (2), Colorado Revised Statutes, are amended to read:

42-4-414. Heavy-duty diesel fleet inspection and maintenance program - penalty. (1) The commission shall develop and implement, effective January 1, 1987, a fleet inspection and maintenance program for diesel-powered motor vehicles of more than ~~seven thousand five hundred~~ FOURTEEN THOUSAND pounds ~~empty weight~~ GROSS VEHICLE WEIGHT RATING. Regional transportation district buses, state, county, and municipal vehicles, and private diesel fleets shall participate in the program through self-certification inspection procedures as developed by the commission.

(2) (a) The executive director of the department of public health and environment shall promulgate rules ~~and regulations~~ requiring owners of diesel-powered motor vehicles, registered in the program area and subject to the provisions of this section, to bring such vehicles into compliance with existing opacity standards set forth in section 42-4-412.

Such rules and regulations shall be strictly construed, shall require no more than normal and reasonable maintenance practices, and shall not require additional fees or loaded mode testing equipment. Owners of fleets shall test opacity standards on a periodic basis.

(b) SUCH TEST SHALL USE AN OPACITY METER FOR SUCH VEHICLES THAT ARE GREATER THAN TEN MODEL YEARS OLD, BUT MAY USE AN AUTOMATED OPACITY METERING PROTOCOL FOR SUCH VEHICLES THAT ARE LESS THAN OR EQUAL TO TEN MODEL YEARS OLD AND OF MODEL YEAR 1995 OR NEWER.

(c) SUCH RULES SHALL EXEMPT A NEW DIESEL VEHICLE FROM TESTING UNTIL SUCH VEHICLE HAS REACHED ITS SECOND MODEL YEAR IF IT IS A LIGHT-DUTY DIESEL VEHICLE, ITS FOURTH MODEL YEAR IF IT IS A HEAVY-DUTY DIESEL VEHICLE, OR UNTIL THE DATE OF THE TRANSFER OF OWNERSHIP PRIOR TO SUCH EXPIRATION.

(d) SUCH RULES SHALL PROVIDE FOR THE TESTING OF DIESEL VEHICLES EVERY:

(I) TWELVE MONTHS UNLESS SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) APPLIES; OR

(II) THE LAST TWENTY-FOUR MONTHS IF SUCH VEHICLE IS A HEAVY-DUTY DIESEL VEHICLE, EQUAL TO OR LESS THAN TEN MODEL YEARS OLD, AND OF MODEL YEAR 1995 OR NEWER.

SECTION 2. 42-4-401 (7), Colorado Revised Statutes, is amended, and the said 42-4-401 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

42-4-401. Definitions. As used in this part 4, unless the context otherwise requires:

(6.3) "HEAVY-DUTY DIESEL VEHICLE" MEANS A VEHICLE THAT IS

GREATER THAN FOURTEEN THOUSAND POUNDS GROSS VEHICLE WEIGHT RATING.

(6.7) "LIGHT-DUTY DIESEL VEHICLE" MEANS A VEHICLE THAT IS LESS THAN OR EQUAL TO FOURTEEN THOUSAND POUNDS GROSS VEHICLE WEIGHT RATING.

(7) "Opacity meter" means an optical instrument ~~which~~ THAT is designed to measure the opacity of diesel exhaust gases. ~~by measuring the full flow of exhaust gases which pass through the optical unit.~~

SECTION 3. 42-4-406 (1) (a), (1) (b) (II), and (2) (b), Colorado Revised Statutes, are amended to read:

42-4-406. Requirement of certification of emissions control for registration - testing for diesel smoke opacity compliance. (1) (a) ~~On or after January 1, 1990, no~~ A diesel vehicle in the program area ~~which~~ THAT is registered or required to be registered pursuant to article 3 of this title, ROUTINELY OPERATES IN THE PROGRAM AREA, or is principally operated from a terminal, maintenance facility, branch, or division located within the program area shall NOT be sold, registered for the first time, or reregistered unless such vehicle has been issued a certification of emissions control within:

(I) The past twelve months UNLESS SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) APPLIES; OR

(II) THE LAST TWENTY-FOUR MONTHS IF SUCH VEHICLE IS EQUAL TO OR LESS THAN TEN MODEL YEARS OLD, A HEAVY-DUTY DIESEL VEHICLE, AND OF MODEL YEAR 1995 OR NEWER.

(b) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), new diesel vehicles, required under this section to have a certification of emissions control, shall be issued a certification of

emissions compliance without inspection or testing. Such certificate shall expire on the anniversary of the day of the issuance of such certification when such vehicle has reached its second model year IF IT IS A LIGHT-DUTY DIESEL VEHICLE, ITS FOURTH MODEL YEAR IF IT IS A HEAVY-DUTY DIESEL VEHICLE, or on the date of the transfer of ownership ~~at any time~~ prior to ~~the second model year~~ SUCH EXPIRATION UNLESS SUCH TRANSFER OF OWNERSHIP IS A TRANSFER FROM THE LESSOR TO THE LESSEE. Prior to the expiration of such certification, such vehicle shall be inspected and a certification of emissions control shall be obtained for diesel smoke opacity compliance.

(2) (b) ~~On or after January 1, 1990, all~~ Light-duty ~~(seven thousand five hundred pounds and less, empty weight)~~ diesel vehicles in the program area shall be required to be tested for diesel smoke opacity compliance at a licensed diesel inspection station by submitting to loaded mode opacity testing utilizing dynamometers.

SECTION 4. 42-4-403 (2) (c), Colorado Revised Statutes, is amended to read:

42-4-403. Powers and duties of the commission. (2) (c) The commission may also develop peak smoke opacity limits but such limits shall not be less than ~~fifty~~ FORTY percent for less than one second.

SECTION 5. 42-4-412 (1) (b) and (4) (c), Colorado Revised Statutes, are amended to read:

42-4-412. Air pollution violations. (1) (b) Violations of this section may be determined by visual observations, INCLUDING THE SNAP ACCELERATION OPACITY TEST, or by test procedures using opacity measurements.

(4) (c) ~~If the owner of the vehicle described in the complaint~~

~~assessment notice presents in person to the court an affidavit that the vehicle has been disposed of in such a manner that it will no longer be operated on the highways, together with the registration card and number plates of such vehicle, the fine shall be suspended. Likewise, upon presentation, in person, of an affidavit of the owner that such vehicle has been repaired prior to the date set for appearance upon the charge, which appearance date shall be at least fifteen days after the alleged offense, stating the date, location, and nature of repairs made, together with the name of the person making said repairs, and that the vehicle is not in violation of the provisions of this section when in normal operation, the fine shall be suspended. Likewise, upon presentation, by mail or in person, of an affidavit of the owner that such vehicle is being repaired or will be repaired within thirty days after the alleged offense, the cause shall be continued at least fifteen days. Any such affidavits are subject to the penalties of perjury in the second degree if made in violation of the provisions of section 18-8-503, C.R.S.~~ Any owner who receives a citation under the provisions of this section may continue to use the vehicle for which the offense is alleged, without restriction, until such owner's conviction.

SECTION 6. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the

1 date of the official declaration of the vote thereon by proclamation of the
2 governor.