

EMISSION TESTING MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David G. Butterfield

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions relating to emissions inspections.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires a county to impose certain penalties on a certified emissions inspector who, with simple negligence, violates county inspection and maintenance program requirements;
- ▶ requires a county to impose certain penalties on a certified emissions inspector who knowingly and willingly violates county inspection and maintenance program requirements;
- ▶ provides penalty limits a county may impose on an owner of an inspection station if an owner or operator knowingly and willingly violates county inspection and maintenance program requirements;
- ▶ provides that an owner of an inspection station may appeal certain penalties in accordance with regulations or ordinances established by the county;
- ▶ provides that a violation of county inspection and maintenance program requirements by a certified emissions inspector does not relieve the county from the burden of proving a violation of county inspection and maintenance program



28 requirements by an owner or operator of an inspection station; and

29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-6a-1642**, as last amended by Laws of Utah 2010, Chapter 295

37 ENACTS:

38 **41-6a-1642.5**, Utah Code Annotated 1953



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **41-6a-1642** is amended to read:

42 **41-6a-1642. Emissions inspection -- County program.**

43 (1) The legislative body of each county required under federal law to utilize a motor
44 vehicle emissions inspection and maintenance program or in which an emissions inspection
45 and maintenance program is necessary to attain or maintain any national ambient air quality
46 standard shall require:

47 (a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle
48 is exempt from emissions inspection and maintenance program requirements be presented:

49 (i) as a condition of registration or renewal of registration; and

50 (ii) at other times as the county legislative body may require to enforce inspection
51 requirements for individual motor vehicles, except that the county legislative body may not
52 routinely require a certificate of emission inspection, or waiver of the certificate, more often
53 than required under Subsection (6); and

54 (b) compliance with this section for a motor vehicle registered or principally operated
55 in the county and owned by or being used by a department, division, instrumentality, agency, or
56 employee of:

57 (i) the federal government;

58 (ii) the state and any of its agencies; or

- 59 (iii) a political subdivision of the state, including school districts.
- 60 (2) (a) The legislative body of a county identified in Subsection (1), in consultation
61 with the Air Quality Board created under Section 19-1-106, shall make regulations or
62 ordinances regarding:
- 63 (i) emissions standards;
 - 64 (ii) test procedures;
 - 65 (iii) inspections stations;
 - 66 (iv) repair requirements and dollar limits for correction of deficiencies; ~~and~~
 - 67 (v) certificates of emissions inspections; and
 - 68 (vi) the appeal process under Subsection 41-6a-1642.5(2)(d).
- 69 (b) The regulations or ordinances shall:
- 70 (i) be made to attain or maintain ambient air quality standards in the county, consistent
71 with the state implementation plan and federal requirements; and
 - 72 (ii) may allow for a phase-in of the program by geographical area.
- 73 (c) The county legislative body and the Air Quality Board shall give preference to an
74 inspection and maintenance program that is:
- 75 (i) decentralized, to the extent the decentralized program will attain and maintain
76 ambient air quality standards and meet federal requirements;
 - 77 (ii) the most cost effective means to achieve and maintain the maximum benefit with
78 regard to ambient air quality standards and to meet federal air quality requirements as related to
79 vehicle emissions; and
 - 80 (iii) providing a reasonable phase-out period for replacement of air pollution emission
81 testing equipment made obsolete by the program.
- 82 (d) The provisions of Subsection (2)(c)(iii) apply only to the extent the phase-out:
- 83 (i) may be accomplished in accordance with applicable federal requirements; and
 - 84 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
85 quality standards.
- 86 (3) The following vehicles are exempt from the provisions of this section:
- 87 (a) an implement of husbandry;
 - 88 (b) a motor vehicle that:
 - 89 (i) meets the definition of a farm truck under Section 41-1a-102; and

90 (ii) has a gross vehicle weight rating of 12,001 pounds or more;

91 (c) a vintage vehicle as defined in Section 41-21-1; and

92 (d) a custom vehicle as defined in Section 41-6a-1507.

93 (4) (a) The legislative body of a county identified in Subsection (1) shall exempt a
94 pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of 12,000 pounds or
95 less from the emission inspection requirements of this section, if the registered owner of the
96 pickup truck provides a signed statement to the legislative body stating the truck is used:

97 (i) by the owner or operator of a farm located on property that qualifies as land in
98 agricultural use under Sections 59-2-502 and 59-2-503; and

99 (ii) exclusively for the following purposes in operating the farm:

100 (A) for the transportation of farm products, including livestock and its products,
101 poultry and its products, floricultural and horticultural products; and

102 (B) in the transportation of farm supplies, including tile, fence, and every other thing or
103 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production
104 and maintenance.

105 (b) The county shall provide to the registered owner who signs and submits a signed
106 statement under this section a certificate of exemption from emission inspection requirements
107 for purposes of registering the exempt vehicle.

108 (5) (a) Subject to Subsection (5)(c), the legislative body of each county required under
109 federal law to utilize a motor vehicle emissions inspection and maintenance program or in
110 which an emissions inspection and maintenance program is necessary to attain or maintain any
111 national ambient air quality standard may require each college or university located in a county
112 subject to this section to require its students and employees who park a motor vehicle not
113 registered in a county subject to this section to provide proof of compliance with an emissions
114 inspection accepted by the county legislative body if the motor vehicle is parked on the college
115 or university campus or property.

116 (b) College or university parking areas that are metered or for which payment is
117 required per use are not subject to the requirements of this Subsection (5).

118 (c) The legislative body of a county shall make the reasons for implementing the
119 provisions of this Subsection (5) part of the record at the time that the county legislative body
120 takes its official action to implement the provisions of this Subsection (5).

121 (6) (a) An emissions inspection station shall issue a certificate of emissions inspection
122 for each motor vehicle that meets the inspection and maintenance program requirements
123 established in rules made under Subsection (2).

124 (b) The frequency of the emissions inspection shall be determined based on the age of
125 the vehicle as determined by model year and shall be required annually subject to the
126 provisions of Subsection (6)(c).

127 (c) (i) To the extent allowed under the current federally approved state implementation
128 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative
129 body of a county identified in Subsection (1) shall only require the emissions inspection every
130 two years for each vehicle.

131 (ii) The provisions of Subsection (6)(c)(i) apply only to a vehicle that is less than six
132 years old on January 1.

133 (d) If an emissions inspection is only required every two years for a vehicle under
134 Subsection (6)(c), the inspection shall be required for the vehicle in:

135 (i) odd-numbered years for vehicles with odd-numbered model years; or

136 (ii) in even-numbered years for vehicles with even-numbered model years.

137 (7) The emissions inspection shall be required within the same time limit applicable to
138 a safety inspection under Section 41-1a-205.

139 (8) (a) A county identified in Subsection (1) shall collect information about and
140 monitor the program.

141 (b) A county identified in Subsection (1) shall supply this information to an appropriate
142 legislative committee, as designated by the Legislative Management Committee, at times
143 determined by the designated committee to identify program needs, including funding needs.

144 (9) If approved by the county legislative body, a county that had an established
145 emissions inspection fee as of January 1, 2002, may increase the established fee that an
146 emissions inspection station may charge by \$2.50 for each year that is exempted from
147 emissions inspections under Subsection (6)(c) up to a \$7.50 increase.

148 (10) (a) A county identified in Subsection (1) may impose a local emissions
149 compliance fee on each motor vehicle registration within the county in accordance with the
150 procedures and requirements of Section 41-1a-1223.

151 (b) A county that imposes a local emissions compliance fee shall use revenues

152 generated from the fee for the establishment and enforcement of an emissions inspection and
153 maintenance program in accordance with the requirements of this section.

154 Section 2. Section **41-6a-1642.5** is enacted to read:

155 **41-6a-1642.5. Violating the county program -- Penalties.**

156 (1) As used in this section:

157 (a) "Certified emissions inspector" means a person who has successfully completed all
158 certification requirements, possesses a current, valid inspector certificate, and performs
159 emissions testing at an inspection station.

160 (b) "Inspector certificate" means a document issued by a county identified in Section
161 41-6a-1642 to verify that a person has met the requirements for becoming a certified emissions
162 inspector.

163 (c) "Operator" means the person who has been designated by the owner to operate or
164 manage the day-to-day operations of an inspection station.

165 (d) "Owner" means a natural person, corporation, association, partnership, receiver,
166 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
167 representative, either public or private, owning or controlling an inspection station.

168 (e) "Simple negligence" means the failure to exercise that degree of care that
169 reasonable and prudent persons exercise under like or similar circumstances.

170 (2) (a) If a certified emissions inspector, with simple negligence, violates the inspection
171 and maintenance program requirements established in rules made under Subsection
172 41-6a-1642(2)(a), a county identified in Section 41-6a-1642 shall:

173 (i) for a first offense, require the inspector to complete up to eight hours of related
174 training at the expense of the entity that issued an inspector certificate to the inspector;

175 (ii) for a second offense and within two years of the first offense, require the inspector
176 to pay a fine of not more than \$500; or

177 (iii) for a third offense and within two years of the first offense, revoke the inspector's
178 inspector certificate for up to two years.

179 (b) If a certified emissions inspector knowingly and willfully violates the inspection
180 and maintenance program requirements established in rules made under Subsection
181 41-6a-1642(2)(a), a county identified in Section 41-6a-1642 shall:

182 (i) for a first offense, require the inspector to:

- 183 (A) pay a fine of not more than \$1,000; and
184 (B) recertify as a certified emissions inspector; or
185 (ii) for a second offense and within two years of the first offense, revoke the inspector's
186 inspector certificate for up to five years.
187 (c) If an owner or operator of an inspection station knowingly and willfully violates the
188 inspection and maintenance program requirements established in rules made under Subsection
189 41-6a-1642(2)(a), a county identified in Section 41-6a-1642 may:
190 (i) for a first offense, require the owner of the inspection station to pay a fine of not
191 more than \$10,000; or
192 (ii) for a second offense and within two years of the first offense, revoke the inspection
193 station's license to issue certificates of emissions inspections for not more than five years.
194 (d) An owner of an inspection station subject to a penalty under Subsection (2)(c) may
195 appeal the penalty in accordance with rules established under Subsection 41-6a-1642(2)(a).
196 (e) A violation of Subsection (2)(a) or (b) does not relieve the county from the burden
197 of proving that a violation of Subsection (2)(c) occurred.

Legislative Review Note
as of 1-17-11 6:50 AM

Office of Legislative Research and General Counsel