

AIR QUALITY EMISSIONS TESTING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

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LONG TITLE

General Description:

This bill amends requirements for emissions testing of motor vehicles.

Highlighted Provisions:

This bill:

- ▶ amends exemptions to emissions testing;
- ▶ creates a pilot program requiring certain counties to require emissions inspections for certain diesel-powered motor vehicles;
- ▶ requires a county participating in the program to present a report;
- ▶ requires the Division of Air Quality to provide an estimate of pollution emitted based on the failure rate of diesel-powered motor vehicles in the pilot program; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

28 **41-6a-1642**, as last amended by Laws of Utah 2017, Chapters 57, 246, and 406

29

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

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

32 **41-6a-1642. Emissions inspection -- County program.**

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

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

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

40 (ii) at other times as the county legislative body may require to enforce inspection
41 requirements for individual motor vehicles, except that the county legislative body may not
42 routinely require a certificate of [~~emission~~] emissions inspection, or waiver of the certificate,
43 more often than required under Subsection [~~(7)~~] (9); and

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

47 (i) the federal government;

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

49 (iii) a political subdivision of the state, including school districts.

50 (2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions
51 inspection and maintenance program certificate of emissions inspection as described in
52 Subsection (1), but the program may not deny vehicle registration based solely on the presence
53 of a defeat device covered in the Volkswagen partial consent decrees or a United States
54 Environmental Protection Agency-approved vehicle modification in the following vehicles:

- 55 (a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
56 emissions are mitigated in the state pursuant to a partial consent decree, including:
- 57 (i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;
 - 58 (ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and
59 2014;
 - 60 (iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;
 - 61 (iv) Volkswagen Golf Sportwagen, model year 2015;
 - 62 (v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;
 - 63 (vi) Volkswagen Beetle, model years 2013, 2014, and 2015;
 - 64 (vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and
 - 65 (viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and
- 66 (b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
67 emissions are mitigated in the state to a settlement, including:
- 68 (i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and
69 2016;
 - 70 (ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;
 - 71 (iii) Audi A6 Quattro, model years 2014, 2015, and 2016;
 - 72 (iv) Audi A7 Quattro, model years 2014, 2015, and 2016;
 - 73 (v) Audi A8, model years 2014, 2015, and 2016;
 - 74 (vi) Audi A8L, model years 2014, 2015, and 2016;
 - 75 (vii) Audi Q5, model years 2014, 2015, and 2016; and
 - 76 (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.
- 77 (3) (a) The legislative body of a county identified in Subsection (1), in consultation
78 with the Air Quality Board created under Section [19-1-106](#), shall make regulations or
79 ordinances regarding:
- 80 (i) emissions standards;
 - 81 (ii) test procedures;

- 82 (iii) inspections stations;
- 83 (iv) repair requirements and dollar limits for correction of deficiencies; and
- 84 (v) certificates of emissions inspections.
- 85 ~~[(b) The regulations or ordinances shall:]~~
- 86 (b) In accordance with Subsection (3)(a), a county legislative body:
- 87 (i) ~~[be made]~~ shall make regulations or ordinances to attain or maintain ambient air
- 88 quality standards in the county, consistent with the state implementation plan and federal
- 89 requirements;
- 90 (ii) may allow for a phase-in of the program by geographical area; and
- 91 (iii) ~~[be compliant]~~ shall comply with the analyzer design and certification
- 92 requirements contained in the state implementation plan prepared under Title 19, Chapter 2,
- 93 Air Conservation Act.
- 94 (c) The county legislative body and the Air Quality Board shall give preference to an
- 95 inspection and maintenance program that ~~[is]~~:
- 96 (i) is decentralized, to the extent the decentralized program will attain and maintain
- 97 ambient air quality standards and meet federal requirements;
- 98 (ii) is the most cost effective means to achieve and maintain the maximum benefit with
- 99 regard to ambient air quality standards and to meet federal air quality requirements as related to
- 100 vehicle emissions; and
- 101 (iii) ~~[providing]~~ provides a reasonable phase-out period for replacement of air pollution
- 102 emission testing equipment made obsolete by the program.
- 103 (d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:
- 104 (i) may be accomplished in accordance with applicable federal requirements; and
- 105 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
- 106 quality standards.
- 107 (4) The following vehicles are exempt from an emissions inspection program and the
- 108 provisions of this section:

- 109 (a) an implement of husbandry as defined in Section 41-1a-102;
- 110 (b) a motor vehicle that:
 - 111 (i) meets the definition of a farm truck under Section 41-1a-102; and
 - 112 (ii) has a gross vehicle weight rating of 12,001 pounds or more;
- 113 (c) a vintage vehicle as defined in Section 41-21-1;
- 114 (d) a custom vehicle as defined in Section 41-6a-1507; ~~[and]~~
- 115 (e) to the extent allowed under the current federally approved state implementation
- 116 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor
- 117 vehicle that is less than two years old on January 1 based on the age of the vehicle as
- 118 determined by the model year identified by the manufacturer~~[-]~~;
- 119 ~~[(5) (a) The legislative body of a county identified in Subsection (1) shall exempt]~~
- 120 (f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating
- 121 of 12,000 pounds or less ~~[from the emission inspection requirements of this section]~~, if the
- 122 registered owner of the pickup truck provides a signed statement to the legislative body stating
- 123 the truck is used:
 - 124 (i) by the owner or operator of a farm located on property that qualifies as land in
 - 125 agricultural use under Sections 59-2-502 and 59-2-503; and
 - 126 (ii) exclusively for the following purposes in operating the farm:
 - 127 (A) for the transportation of farm products, including livestock and its products,
 - 128 poultry and its products, floricultural and horticultural products; and
 - 129 (B) in the transportation of farm supplies, including tile, fence, and every other thing or
 - 130 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production
 - 131 and maintenance~~[-]~~;
- 132 (g) a motorcycle as defined in Section 41-1a-102;
- 133 (h) a motor vehicle powered solely by electric power; and
- 134 (i) a motor vehicle with a model year of 1967 or older.
- 135 ~~[(b)]~~ (5) The county shall ~~[provide]~~ issue to the registered owner who signs and

136 submits a signed statement under [~~this section~~] Subsection (4)(f) a certificate of exemption
137 from [~~emission~~] emissions inspection requirements for purposes of registering the exempt
138 vehicle.

139 (6) A legislative body of a county described in Subsection (1) may exempt from an
140 emissions inspection program a diesel-powered motor vehicle with a:

141 (a) gross vehicle weight rating of more than 14,000 pounds; or

142 (b) model year of 1997 or older.

143 (7) (a) The legislative body of a county described in Subsection (1) that does not
144 require an emissions inspection for diesel-powered motor vehicles as of December 31, 2017,
145 shall implement a three-year pilot program as described in Subsection (7)(b).

146 (b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative
147 body of a county described in Subsection (7)(a) shall require:

148 (i) a computerized emissions inspection for a diesel-powered motor vehicle that has:

149 (A) a model year of 2007 or newer;

150 (B) a gross vehicle weight rating of 14,000 pounds or less; and

151 (C) a model year that is five years old or older; and

152 (ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

153 (A) with a gross vehicle weight rating of 14,000 pounds or less;

154 (B) that has a model year of 1997 or newer; and

155 (C) that has a model year that is five years old or older.

156 (c) (i) The legislative body of a county that participates in the pilot program described
157 in this Subsection (7) shall prepare a report including:

158 (A) the total number of diesel-powered vehicles inspected as part of the pilot program
159 using computerized technology;

160 (B) the passage and failure rates of the diesel-powered motor vehicles inspected as part
161 of the pilot program using computerized technology, shown by model year;

162 (C) the total number of diesel-powered vehicles visually inspected as part of the pilot

163 program;

164 (D) the passage and failure rates of the diesel-powered motor vehicles visually
165 inspected as part of the pilot program, shown by model year;

166 (E) the total number of diesel-powered vehicles visually inspected as part of the pilot
167 program where tampering with emissions equipment was found, shown by model year; and

168 (F) any other information the executive body or individual considers relevant.

169 (ii) The legislative body of a county that participates in the pilot program described in
170 this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural
171 Resources, Agriculture, and Environment Interim Committee:

172 (A) one time after January 1, 2020, but before August 31, 2020; and

173 (B) one time after January 1, 2021, but before August 31, 2021.

174 (d) After each report described in Subsection (7)(c), the Division of Air Quality created
175 in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment
176 Interim Committee and the legislative body of a county participating in the pilot program an
177 estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor
178 vehicles in the pilot program.

179 ~~[(6)]~~ (8) (a) Subject to Subsection ~~[(6)]~~ (8)(c), the legislative body of each county
180 required under federal law to utilize a motor vehicle emissions inspection and maintenance
181 program or in which an emissions inspection and maintenance program is necessary to attain or
182 maintain any national ambient air quality standard may require each college or university
183 located in a county subject to this section to require its students and employees who park a
184 motor vehicle not registered in a county subject to this section to provide proof of compliance
185 with an emissions inspection accepted by the county legislative body if the motor vehicle is
186 parked on the college or university campus or property.

187 (b) College or university parking areas that are metered or for which payment is
188 required per use are not subject to the requirements of this Subsection ~~[(6)]~~ (8).

189 (c) The legislative body of a county shall make the reasons for implementing the

190 provisions of this Subsection [~~(6)~~] (8) part of the record at the time that the county legislative
191 body takes its official action to implement the provisions of this Subsection [~~(6)~~] (8).

192 [~~(7)~~] (9) (a) An emissions inspection station shall issue a certificate of emissions
193 inspection for each motor vehicle that meets the inspection and maintenance program
194 requirements established in rules made under Subsection (3).

195 (b) The frequency of the emissions inspection shall be determined based on the age of
196 the vehicle as determined by model year and shall be required annually subject to the
197 provisions of Subsection [~~(7)~~] (9)(c).

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

202 (ii) The provisions of Subsection [~~(7)~~] (9)(c)(i) apply only to a vehicle that is less than
203 six years old on January 1.

204 (iii) For a county required to implement a new vehicle emissions inspection and
205 maintenance program on or after December 1, 2012, under Subsection (1), but for which no
206 current federally approved state implementation plan exists, a vehicle shall be tested at a
207 frequency determined by the county legislative body, in consultation with the Air Quality
208 Board created under Section 19-1-106, that is necessary to comply with federal law or attain or
209 maintain any national ambient air quality standard.

210 (iv) If a county legislative body establishes or changes the frequency of a vehicle
211 emissions inspection and maintenance program under Subsection [~~(7)~~] (9)(c)(iii), the
212 establishment or change shall take effect on January 1 if the State Tax Commission receives
213 notice meeting the requirements of Subsection [~~(7)~~] (9)(c)(v) from the county before October 1.

214 (v) The notice described in Subsection [~~(7)~~] (9)(c)(iv) shall:

215 (A) state that the county will establish or change the frequency of the vehicle emissions
216 inspection and maintenance program under this section;

217 (B) include a copy of the ordinance establishing or changing the frequency; and
218 (C) if the county establishes or changes the frequency under this section, state how
219 frequently the emissions testing will be required.

220 (d) If an emissions inspection is only required every two years for a vehicle under
221 Subsection ~~[(7)]~~(9)(c), the inspection shall be required for the vehicle in:

- 222 (i) odd-numbered years for vehicles with odd-numbered model years; or
- 223 (ii) in even-numbered years for vehicles with even-numbered model years.

224 ~~[(8)]~~ (10) (a) Except as provided in Subsections ~~[(7)]~~ (9)(b), (c), and (d), the emissions
225 inspection required under this section may be made no more than two months before the
226 renewal of registration.

227 (b) (i) If the title of a used motor vehicle is being transferred, the owner may use an
228 emissions inspection certificate issued for the motor vehicle during the previous 11 months to
229 satisfy the requirement under this section.

230 (ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may
231 use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded
232 motor vehicle dealer's name during the previous 11 months to satisfy the requirement under
233 this section.

234 (c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the
235 lessee may use an emissions inspection certificate issued during the previous 11 months to
236 satisfy the requirement under this section.

237 (d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not
238 use an emissions inspection made more than 11 months before the renewal of registration to
239 satisfy the requirement under this section.

240 (e) If the application for renewal of registration is for a six-month registration period
241 under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during
242 the previous eight months to satisfy the requirement under this section.

243 ~~[(9)]~~ (11) (a) A county identified in Subsection (1) shall collect information about and

244 monitor the program.

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

248 [~~(10)~~] (12) If approved by the county legislative body, a county that had an established
249 emissions inspection fee as of January 1, 2002, may increase the established fee that an
250 emissions inspection station may charge by \$2.50 for each year that is exempted from
251 emissions inspections under Subsection [~~(7)~~] (9)(c) up to a \$7.50 increase.

252 [~~(11)~~] (13) (a) A county identified in Subsection (1) may impose a local emissions
253 compliance fee on each motor vehicle registration within the county in accordance with the
254 procedures and requirements of Section [41-1a-1223](#).

255 (b) A county that imposes a local emissions compliance fee may use revenues
256 generated from the fee for the establishment and enforcement of an emissions inspection and
257 maintenance program in accordance with the requirements of this section.

258 (c) A county that imposes a local emissions compliance fee may use revenues
259 generated from the fee to promote programs to maintain a local, state, or national ambient air
260 quality standard.