

**NOISE POLLUTION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark A. Wheatley**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill requires certain vehicles to be inspected as a prerequisite for registration for compliance with noise suppression provisions.

**Highlighted Provisions:**

This bill:

- requires vehicles subject to an emissions inspection also be inspected for compliance with noise suppression equipment requirements;
- requires proof of the inspection as a condition of registration;
- imposes fines on an individual for a violation of muffler and noise suppression equipment requirements; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**41-6a-1626**, as last amended by Laws of Utah 2019, Chapter 461

**41-6a-1642**, as last amended by Laws of Utah 2019, Chapter 140

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

29 Section 1. Section **41-6a-1626** is amended to read:

30 **41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution**  
31 **control devices.**

32 (1) (a) A vehicle shall be equipped, maintained, and operated to prevent excessive or  
33 unusual noise.

34 (b) A motor vehicle shall be equipped with a muffler or other effective noise  
35 suppressing system in good working order and in constant operation.

36 (c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

37 (d) As part of an emissions test described in Section [41-6a-1642](#), each motor vehicle  
38 subject to an emissions test shall be inspected to ensure compliance with the noise prevention  
39 equipment required in this section.

40 (2) (a) Except while the engine is being warmed to the recommended operating  
41 temperature, the engine and power mechanism of a gasoline-powered motor vehicle may not  
42 emit visible contaminants during operation.

43 (b) (i) As used in this Subsection (2)(b), "heavy tow" means a tow that exceeds the  
44 vehicle's maximum tow weight.

45 (ii) A diesel engine manufactured on or after January 1, 2008, may not emit visible  
46 contaminants during operation:

47 (A) except while the engine is being warmed to the recommended operating  
48 temperature or under a heavy tow; or

49 (B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight  
50 rating in excess of 26,000 pounds.

51 (iii) A diesel engine manufactured before January 1, 2008, may not emit visible  
52 contaminants of a shade or density that obscures a contrasting background by more than 20%,  
53 for more than five consecutive seconds:

54 (A) except while the engine is being warmed to the recommended operating  
55 temperature or under a heavy tow; or

56 (B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight  
57 rating in excess of 26,000 pounds.

58 (c) A person who violates the provisions of Subsection (2)(a) is guilty of an infraction

59 and shall be fined:

60 (i) not less than \$50 for a violation; or

61 (ii) not less than \$100 for a second or subsequent violation within three years of a  
62 previous violation of this section.

63 (d) A person who violates the provisions of Subsection (2)(b) is guilty of an infraction  
64 and shall be fined:

65 (i) not less than \$100 for a violation; or

66 (ii) not less than \$500 for a second or subsequent violation within three years of a  
67 previous violation of this section.

68 (e) (i) As used in this section:

69 (A) "Local health department" means the same as that term is defined in Section  
70 [26A-1-102](#).

71 (B) "Nonattainment area" means the same as that term is defined in Section  
72 [63N-3-102](#).

73 (ii) Within a nonattainment area, for a second or subsequent violation of Subsection  
74 (2)(a) or (2)(b), the court shall report the violations to the local health department at a regular  
75 interval.

76 (iii) If the local health department receives a notification as described in Subsection  
77 (2)(e)(ii), and the local health department determines that the registered vehicle is unable to  
78 meet state or local air emission standards, the local health department shall send notification to  
79 the Motor Vehicle Division.

80 (3) (a) If a motor vehicle is equipped by a manufacturer with air pollution control  
81 devices, the devices shall be maintained in good working order and in constant operation.

82 (b) For purposes of the first sale of a vehicle at retail, an air pollution control device  
83 may be substituted for the manufacturer's original device if the substituted device is at least as  
84 effective in the reduction of emissions from the vehicle motor as the air pollution control  
85 device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle  
86 class.

87 (c) A person who renders inoperable an air pollution control device on a motor vehicle  
88 is guilty of an infraction.

89 (4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean

90 fuel, as defined under Section 59-13-102, when the emissions from the modified or altered  
91 motor vehicle are at levels that comply with existing state or federal standards for the emission  
92 of pollutants from a motor vehicle of the same class.

93 (5) (a) A person who violates Subsection (1) is guilty of an infraction and shall be  
94 fined:

95 (i) not less than \$400 for a violation; or

96 (ii) not less than \$950 for a second or subsequent violation within three years of a  
97 previous violation of this section.

98 (b) A violation of Subsection [(1),(2);] (2) or (3) is an infraction.

99 Section 2. Section 41-6a-1642 is amended to read:

100 **41-6a-1642. Emissions inspection -- County program.**

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

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

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

108 (ii) at other times as the county legislative body may require to enforce inspection  
109 requirements for individual motor vehicles, except that the county legislative body may not  
110 routinely require a certificate of emissions inspection, or waiver of the certificate, more often  
111 than required under Subsection (9); and

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

115 (i) the federal government;

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

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

118 (2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions  
119 inspection and maintenance program certificate of emissions inspection as described in  
120 Subsection (1), but the program may not deny vehicle registration based solely on the presence

121 of a defeat device covered in the Volkswagen partial consent decrees or a United States  
122 Environmental Protection Agency-approved vehicle modification in the following vehicles:

123 (a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide  
124 emissions are mitigated in the state pursuant to a partial consent decree, including:

125 (i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

126 (ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and  
127 2014;

128 (iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

129 (iv) Volkswagen Golf Sportwagen, model year 2015;

130 (v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

131 (vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

132 (vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

133 (viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

134 (b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide  
135 emissions are mitigated in the state to a settlement, including:

136 (i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and  
137 2016;

138 (ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

139 (iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

140 (iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

141 (v) Audi A8, model years 2014, 2015, and 2016;

142 (vi) Audi A8L, model years 2014, 2015, and 2016;

143 (vii) Audi Q5, model years 2014, 2015, and 2016; and

144 (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

145 (3) (a) The legislative body of a county identified in Subsection (1), in consultation  
146 with the Air Quality Board created under Section 19-1-106, shall make regulations or  
147 ordinances regarding:

148 (i) emissions standards;

149 (ii) test procedures;

150 (iii) inspections stations;

151 (iv) repair requirements and dollar limits for correction of deficiencies; and

- 152 (v) certificates of emissions inspections.
- 153 (b) In accordance with Subsection (3)(a), a county legislative body:
  - 154 (i) shall make regulations or ordinances to attain or maintain ambient air quality
  - 155 standards in the county, consistent with the state implementation plan and federal
  - 156 requirements;
  - 157 (ii) may allow for a phase-in of the program by geographical area; and
  - 158 (iii) shall comply with the analyzer design and certification requirements contained in
  - 159 the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.
- 160 (c) The county legislative body and the Air Quality Board shall give preference to an
- 161 inspection and maintenance program that:
  - 162 (i) is decentralized, to the extent the decentralized program will attain and maintain
  - 163 ambient air quality standards and meet federal requirements;
  - 164 (ii) is the most cost effective means to achieve and maintain the maximum benefit with
  - 165 regard to ambient air quality standards and to meet federal air quality requirements as related to
  - 166 vehicle emissions; and
  - 167 (iii) provides a reasonable phase-out period for replacement of air pollution emission
  - 168 testing equipment made obsolete by the program.
- 169 (d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:
  - 170 (i) may be accomplished in accordance with applicable federal requirements; and
  - 171 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
  - 172 quality standards.
- 173 (4) The following vehicles are exempt from an emissions inspection program and the
- 174 provisions of this section:
  - 175 (a) an implement of husbandry as defined in Section [41-1a-102](#);
  - 176 (b) a motor vehicle that:
    - 177 (i) meets the definition of a farm truck under Section [41-1a-102](#); and
    - 178 (ii) has a gross vehicle weight rating of 12,001 pounds or more;
  - 179 (c) a vintage vehicle as defined in Section [41-21-1](#);
  - 180 (d) a custom vehicle as defined in Section [41-6a-1507](#);
  - 181 (e) to the extent allowed under the current federally approved state implementation
  - 182 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor

183 vehicle that is less than two years old on January 1 based on the age of the vehicle as  
184 determined by the model year identified by the manufacturer;

185 (f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating  
186 of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed  
187 statement to the legislative body stating the truck is used:

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

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

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

193 (B) in the transportation of farm supplies, including tile, fence, and every other thing or  
194 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production  
195 and maintenance;

196 (g) a motorcycle as defined in Section 41-1a-102;

197 (h) a motor vehicle powered solely by electric power; and

198 (i) a motor vehicle with a model year of 1967 or older.

199 (5) The county shall issue to the registered owner who signs and submits a signed  
200 statement under Subsection (4)(f) a certificate of exemption from emissions inspection  
201 requirements for purposes of registering the exempt vehicle.

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

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

205 (b) model year of 1997 or older.

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

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

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

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

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

214 (C) a model year that is five years old or older; and  
215 (ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:  
216 (A) with a gross vehicle weight rating of 14,000 pounds or less;  
217 (B) that has a model year of 1998 or newer; and  
218 (C) that has a model year that is five years old or older.  
219 (c) (i) The legislative body of a county that participates in the pilot program described  
220 in this Subsection (7) shall prepare a report including:  
221 (A) the total number of diesel-powered vehicles inspected as part of the pilot program  
222 using computerized technology;  
223 (B) the passage and failure rates of the diesel-powered motor vehicles inspected as part  
224 of the pilot program using computerized technology, shown by model year;  
225 (C) the total number of diesel-powered vehicles visually inspected as part of the pilot  
226 program;  
227 (D) the passage and failure rates of the diesel-powered motor vehicles visually  
228 inspected as part of the pilot program, shown by model year;  
229 (E) the total number of diesel-powered vehicles visually inspected as part of the pilot  
230 program where tampering with emissions equipment was found, shown by model year; and  
231 (F) any other information the executive body or individual considers relevant.  
232 (ii) The legislative body of a county that participates in the pilot program described in  
233 this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural  
234 Resources, Agriculture, and Environment Interim Committee:  
235 (A) one time after January 1, 2020, but before August 31, 2020; and  
236 (B) one time after January 1, 2021, but before August 31, 2021.  
237 (d) After each report described in Subsection (7)(c), the Division of Air Quality created  
238 in Section [19-1-105](#) shall provide to the Natural Resources, Agriculture, and Environment  
239 Interim Committee and the legislative body of a county participating in the pilot program an  
240 estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor  
241 vehicles in the pilot program.  
242 (8) (a) Subject to Subsection (8)(c), the legislative body of each county required under  
243 federal law to utilize a motor vehicle emissions inspection and maintenance program or in  
244 which an emissions inspection and maintenance program is necessary to attain or maintain any



245 national ambient air quality standard may require each college or university located in a county  
246 subject to this section to require its students and employees who park a motor vehicle not  
247 registered in a county subject to this section to provide proof of compliance with an emissions  
248 inspection accepted by the county legislative body if the motor vehicle is parked on the college  
249 or university campus or property.

250 (b) College or university parking areas that are metered or for which payment is  
251 required per use are not subject to the requirements of this Subsection (8).

252 (c) The legislative body of a county shall make the reasons for implementing the  
253 provisions of this Subsection (8) part of the record at the time that the county legislative body  
254 takes its official action to implement the provisions of this Subsection (8).

255 (9) (a) An emissions inspection station shall issue a certificate of emissions inspection  
256 for each motor vehicle that meets the inspection and maintenance program requirements  
257 established in Subsection 41-6a-1626(1) and in rules made under Subsection (3).

258 (b) The frequency of the emissions inspection shall be determined based on the age of  
259 the vehicle as determined by model year and shall be required annually subject to the  
260 provisions of Subsection (9)(c).

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

265 (ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six  
266 years old on January 1.

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

273 (iv) If a county legislative body establishes or changes the frequency of a vehicle  
274 emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment  
275 or change shall take effect on January 1 if the State Tax Commission receives notice meeting

276 the requirements of Subsection (9)(c)(v) from the county before October 1.

277 (v) The notice described in Subsection (9)(c)(iv) shall:

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

280 (B) include a copy of the ordinance establishing or changing the frequency; and

281 (C) if the county establishes or changes the frequency under this section, state how  
282 frequently the emissions testing will be required.

283 (d) If an emissions inspection is only required every two years for a vehicle under  
284 Subsection(9)(c), the inspection shall be required for the vehicle in:

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

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

287 (10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection  
288 required under this section may be made no more than two months before the renewal of  
289 registration.

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

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

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

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

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

306 (11) (a) A county identified in Subsection (1) shall collect information about and

307 monitor the program.

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

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

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

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

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

324 Section 3. **Effective date.**

325 This bill takes effect on January 1, 2021.