

1979 Assembly Bill 500

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CHAPTER 274, Laws of 1979

AN ACT to amend 341.04 (1) (intro.); to repeal and recreate 144.42; and to create 110.20, 110.21 and 341.10 (8), (9) and (10) of the statutes, relating to establishing a program of inspection and maintenance of certain motor vehicles in any county required by federal law to institute this program and in a county whose board of supervisors elect to participate in the program, granting rule-making authority and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Legislative purpose. The purpose of this act is to provide for the implementation of a state motor vehicle emission inspection program to meet the ambient air quality standards of state and federal law. The legislature recognizes that the successful operation of this program will require the close coordination of the departments of natural resources and transportation in exercising their respective responsibilities.

SECTION 6. 110.20 of the statutes is created to read:

110.20 Motor vehicle emission inspection and maintenance program. (1) **DEFINITIONS.** In this section, unless the context requires otherwise:

(a) "Federal act" means the federal clean air act, as amended, on the effective date of this act (1979) (42 USC 7401 et seq.) and regulations issued by the federal environmental protection agency under that act.

(b) "Nonexempt vehicle" means any motor vehicle as defined under s. 340.01 (35) which is owned by the United States or which is required to be registered in this state and to which one or more emission limitations adopted under s. 144.42 (2) applies.

(c) "Nonfleet vehicle" means any nonexempt vehicle except a motor vehicle owned or leased by a person holding a fleet emissions inspection station permit under sub. (14).

(2) **DATES.** (a) The department may establish an inspection and maintenance program as provided in this section on or after January 1, 1982.

(b) The department shall establish an inspection and maintenance program as provided in this section not later than January 1, 1983. If the governor determines by October 1, 1982, that interstate air pollution will jeopardize the attainment by December 31, 1987, of the primary ambient air quality standard for ozone or carbon monoxide in counties identified under s. 144.42 (3), the governor shall request the attorney general to petition the federal environmental protection agency to enforce in neighboring states the provisions in the federal act, which if not implemented will result in this state not attaining either of these standards.

(3) **PURPOSE.** (a) The inspection and maintenance program shall be designed to determine compliance with the emission limitations promulgated under s. 144.42 (2).

(b) The inspection and maintenance program may be designed to determine compliance with s. 144.42 (6) for any nonexempt vehicle which, upon inspection under sub. (6), is determined not to comply with one or more applicable emissions limitations.

(4) **DEPARTMENTAL COOPERATION.** The department shall consult and cooperate with the department of natural resources in order to efficiently and fairly establish and administer the program established under this section.

(5) **COUNTIES.** The department shall operate the inspection and maintenance program in each of the following counties:

(a) Any county identified in a certification under s. 144.42 (3). The department shall terminate the program in the county at the end of the contractual period in effect when the county is withdrawn under s. 144.42 (4).

(b) Any county whose board of supervisors has adopted a resolution requesting the department to establish an inspection and maintenance program in the county for the purpose of improving ambient air quality beyond the standards mandated by section 7409 of the federal act. The department shall terminate the program in the county at the end of the contractual period in effect when the county board adopts a resolution requesting termination of the program.

(6) **MANDATORY INSPECTIONS.** The inspection and maintenance program shall require an annual inspection of any nonexempt vehicle customarily kept in a county identified in sub. (5). The inspection shall be performed:

(a) Within 90 days prior to renewal of annual registration for any motor vehicle required to be registered in this state.

(b) Annually for motor vehicles registered under s. 341.26 (2m) and for motor vehicles owned by the United States.

(7) **VOLUNTARY INSPECTIONS.** The inspection and maintenance program shall require inspection of any nonexempt vehicle which a person presents for inspection at an inspection station.

(8) **CONTRACTORS.** The emissions inspections of nonfleet vehicles shall be performed by persons under contract with the department. The contract shall require the contractor to operate inspection stations for a minimum of 5 years and shall provide for equitable compensation to the contractor if the operation of an inspection and maintenance program within any county is terminated within 5 years after the inspection and maintenance program in the county is begun. No officer, director or employe of the contractor may be an employe of the department or a person engaged in the business of selling, maintaining or repairing motor vehicles or of selling motor vehicle replacement or repair parts. The department shall require the contractor to operate a sufficient number of inspection stations, permanent or mobile, to ensure public convenience in those counties identified under sub. (5). No inspection station may be established within 0.5 mile of an air monitoring station which reported a violation during the period from 1976 to 1979 of the carbon monoxide primary national ambient air quality standard as defined by the department of natural resources. The contractor shall collect, maintain and report data as the department requires. The department shall reserve the right to enter and inspect test station premises, equipment and records at all reasonable times in the discharge of its administrative duties. The department of revenue shall audit the records of the contractor annually and shall provide for the publication of the results of audits conducted under this subsection in the official state newspaper.

(9) **RULES.** The department shall promulgate rules which:

(a) Specify procedures for the inspection of vehicles, including the method of measuring emissions, the types of equipment which may be used in performing the measurements and the calibration requirements for the equipment. The procedures and methods shall be capable of being correlated with the federal test procedures established under section 7525 (a) (1) of the federal act.

(b) Prescribe a procedure for determining whether the cost of necessary repairs and adjustments exceeds the limit under sub. (13).

(c) Specify procedures under which a vehicle may be refused inspection for safety reasons or for defects which would result in inaccurate measurement of emissions.

(10) RECIPROCITY; TEMPORARY CERTIFICATE. The department may promulgate rules which:

(a) Authorize the acceptance of an inspection performed in another state instead of an inspection required under this section if the inspection in the other state was performed under procedures, requirements and standards comparable to those required under this section and it satisfies the requirements of the federal act.

(b) Authorize the issuance of a temporary waiver certificate, valid for not more than 30 days, to allow time for inspection and necessary repairs and adjustments of any motor vehicle subject to inspection under sub. (6).

(10m) REINSPECTION. The owner of a nonexempt vehicle inspected under this section is entitled, if the inspection determines that any applicable emission limitation is exceeded, to one reinspection of the same vehicle at any inspection station within this state if the reinspection takes place within 30 days after the initial inspection or the owner presents satisfactory evidence that the repairs and adjustments which were performed on the vehicle could not have been made within 30 days of the initial inspection.

(11) INSPECTION TESTS; RESULTS. (a) An idle mode inspection shall be performed to determine compliance with applicable emission limitations for carbon monoxide and hydrocarbons. In addition, the department shall require the contractor to perform a loaded mode inspection if the motor vehicle is suitable for loaded mode inspection as determined by the department unless the person presenting the vehicle for inspection refuses the loaded mode inspection.

(b) The department shall require the contractor to furnish the results of the inspection in writing to the person presenting the vehicle for inspection before he or she departs from the testing station. If the inspection shows that the vehicle does not comply with one or more applicable emissions limitations, the results shall include, to the extent possible, a description of the noncompliance and, if a loaded mode inspection was performed, the adjustments or repairs likely to be needed for compliance.

(12) REPAIRS. Repairs or adjustments necessary to bring a vehicle into compliance with applicable emissions limitations are the responsibility of the vehicle owner and may be made by the owner or any person selected by the owner.

(13) REPAIR COST LIMIT. (a) If the cost of repairs and adjustments necessary to bring a vehicle inspected under sub. (6) into compliance with all applicable emissions limitations exceeds the repair cost limit or the model year of the vehicle is more than 10 years prior to the year of inspection, the department shall issue a waiver of compliance, valid for one year, if the owner presents satisfactory evidence to the department that a low-emissions adjustment under par. (d) has been performed on the vehicle within 90 days prior to application for registration.

(b) The repair cost limit is \$55.

(c) In determining the costs of repairs and adjustments included in the repair cost limit, the following costs shall be excluded:

1. Costs covered by any warranty.

2. Costs necessary to repair or replace any emissions control system or mechanism which has been removed, dismantled or rendered inoperative in violation of s. 144.42 (6) or rules promulgated under that section.

(d) A low-emissions adjustment consists of performing the following procedures on a warmed-up vehicle:

1. Inspect and clean or replace spark plugs and repair or replace spark plug wires as required.
2. Inspect for dirty or plugged air cleaner and replace or repair as required.
3. Inspect and adjust choke or equivalent components as required.
4. With the air filter installed, check the idle speed and mixture of air and fuel according to manufacturer's specifications and adjust if necessary.
5. Check the dwell angle, if applicable, and timing according to manufacturer's specifications, adjust and replace points as required.
6. Check the positive crankcase ventilation valve for correct operation, verify free flow through the positive crankcase ventilation system passages and hoses and repair or replace system parts as required.
7. Check vacuum hoses for leaks and repair or replace as required.
8. Make final adjustments in idle speed and the mixture of air and fuel according to manufacturer's specifications, if necessary.

(e) As the technology of motor vehicle design advances, the department may by rule specify alternate low emissions adjustment procedures for the functional equivalents of the equipment or components identified in par. (d).

(14) **FLEET INSPECTION PERMITS.** (a) Any owner or lessee of at least 15 motor vehicles subject to inspection under sub. (6) may apply to the department for a permit to establish a fleet emissions inspection station.

(b) The department shall issue a fleet emissions inspection station permit if the department determines that the applicant:

1. Maintains and repairs the fleet vehicles on a regular basis;
2. Has available the equipment and trained personnel required to perform idle mode emissions inspections in accordance with the procedures promulgated under sub. (9) (a); and
3. Agrees to maintain and report to the department data required by rule of the department and to permit agents of the department to enter and inspect the test station premises, equipment and records at all reasonable times.

(c) A person holding a fleet emissions inspection station permit shall provide for the emissions inspection of each fleet vehicle subject to inspection under sub. (6) and shall report the results of the inspection to the department as required by its rules. A person holding a fleet emissions inspection station permit may not certify compliance of nonfleet vehicles with applicable emissions limitations.

SECTION 7. 110.21 of the statutes is created to read:

110.21 Education and training related to motor vehicle emissions. The department shall conduct a program of public education related to the motor vehicle emission inspection and maintenance program established under s. 110.20. The program may include a pilot project of motor vehicle emissions inspections for those owners who elect to present their motor vehicles for inspection.

SECTION 8. 144.42 of the statutes, as affected by chapter 34, laws of 1979, is repealed and recreated to read:

144.42 Motor vehicle emissions limitations; inspections. (1) **DEFINITIONS.** As used in this section, unless the context requires otherwise:

(a) "Federal act" means the federal clean air act, as amended, on the effective date of this act (1979) (42 USC 7401 et seq.) and regulations issued by the federal environmental protection agency under that act.

(b) "Motor vehicle" has the meaning designated under s. 340.01 (35).

(2) LIMITATIONS. The department shall adopt rules specifying emissions limitations for all motor vehicles not exempted under sub. (5). The limitations may be different for each size, type and year of vehicle engine affected and may not be more stringent than those required by federal law at the time of the vehicle's manufacture. The limitations shall be adopted and periodically revised upon consideration of the following factors:

(a) The emissions reductions necessary to achieve federally mandated ambient air quality standards not later than December 31, 1987, and to maintain those standards after that date.

(b) The emissions levels attainable by reasonable preventive maintenance practices relating to installed emission control equipment and devices for each model year, size and type of motor vehicle affected.

(c) The requirements for eligibility for a manufacturer's warranty under section 7541 (b) of the federal act.

(3) COUNTIES WHERE INSPECTIONS REQUIRED. If the department finds that air quality within a county will not meet one or more applicable primary or secondary ambient air quality standards by December 31, 1982, or that these standards will not be maintained in the county after that date and that inspection of emissions from motor vehicles in any part of the county is required by federal law to attain or maintain these standards, the department shall certify this finding to the department of transportation.

(4) TERMINATION. If the department finds that air quality within a county specified in a certification under sub. (3) has attained all applicable ambient air quality standards and that these standards will be maintained in the county or that control of motor vehicle emissions is no longer required by federal law for attainment and maintenance of these standards, the department shall notify the department of transportation that the county is withdrawn from the certification under sub. (3).

(5) EXEMPTIONS. Emissions limitations promulgated under sub. (2) do not apply to the following motor vehicles:

(a) A motor vehicle of a model year more than 15 years old.

(b) A motor vehicle registered at a gross weight exceeding 8,000 pounds.

(c) A motor vehicle exempt from registration under s. 341.05, except that a motor vehicle owned by the United States is not exempt unless it comes under one of the other paragraphs of this subsection.

(d) A motor vehicle powered by diesel fuel.

(e) A new motor vehicle not previously registered in any state.

(f) A motor vehicle for which inspection, in the judgment of the department, is not a cost effective method for attaining and maintaining air quality.

(g) A moped as defined in s. 340.01 (29m).

(h) A motor-driven cycle as defined in s. 340.01 (33).

(6) TAMPERING WITH POLLUTION CONTROL SYSTEM OR MECHANISM. (a) *Definitions.* As used in this subsection:

1. "Air pollution control equipment" means any equipment or feature which constitutes an operational element of the air pollution control system or mechanism of a motor vehicle.

3. "Tamper" means to dismantle, to remove without replacing with an identical or comparable tested replacement device or to cause to be inoperative any air pollution control equipment.

(b) *Prohibition.* Except as permitted or authorized by rule of the department, no person may tamper with air pollution control equipment.

(c) *Ineligibility for motor vehicle registration.* Except as permitted or authorized by rule of the department, if any person tampers with the air pollution control equipment of a motor vehicle, that vehicle is ineligible for motor vehicle registration until the air pollution control equipment is replaced, repaired or restored to good working order.

(d) *Suspension or cancellation of motor vehicle registration.* Except as permitted or authorized by rule of the department, if the owner of a motor vehicle tampers with or causes or knowingly permits any person to tamper with the air pollution control equipment, the motor vehicle registration for that vehicle may be suspended or canceled in addition to any other penalty provided by law.

SECTION 9. 341.04 (1) (intro.) of the statutes is amended to read:

341.04 (1) (intro.) It is unlawful for any person to operate or for an owner to consent to being operated on any highway of this state any motor vehicle, mobile home, trailer or semitrailer or any other vehicle for which a registration fee is specifically prescribed unless at the time of operation the vehicle in question either is registered in this state, or an a complete application for registration, including evidence of inspection under s. 110.20 when required, accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid, or is exempt from registration.

SECTION 10. 341.10 (8), (9) and (10) of the statutes are created to read:

341.10 (8) The vehicle is not eligible for registration under s. 144.42 (6).

(9) During calendar 1982, the vehicle is required to be inspected under s. 110.20 (6) and has not been inspected.

(10) After December 31, 1982, the vehicle is required to be inspected under s. 110.20 (6) and:

(a) The vehicle has not been inspected; or

(b) The most recent inspection of the vehicle under s. 110.20 indicates noncompliance with one or more applicable emissions limitations unless the department has issued a temporary waiver certificate under s. 110.20 (10) (b) or a waiver of compliance under s. 110.20 (13).

SECTION 12. **Program responsibilities.** (1) In the list of program responsibilities for the department of transportation under section 15.461 (intro.) of the statutes, reference to section "144.42 (3)" is deleted.

(2) In the list of program responsibilities for the department of revenue under section 15.431 (intro.) of the statutes, reference to section "110.20 (8)" is inserted.
