

**Introduced by Senator Pavley**February 26, 2009

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An act to amend Section 44011 of, and to add Section 44012.5 to, the Health and Safety Code, relating to air pollution.

## LEGISLATIVE COUNSEL'S DIGEST

SB 435, as introduced, Pavley. Smog check program: motorcycles.

Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of motor vehicles upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts from biennial inspection all motorcycles until the department implements test procedures applicable to motorcycles. Violations of smog check requirements are a crime.

This bill would require the department to include model-year 2000 and newer motorcycles in the smog check program beginning January 1, 2012.

Because violations of smog checks for motorcycles would be a crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44011 of the Health and Safety Code, as  
2 added by Section 3 of Chapter 739 of the Statutes of 2007, is  
3 amended to read:

4 44011. (a) All motor vehicles powered by internal combustion  
5 engines that are registered within an area designated for program  
6 coverage shall be required biennially to obtain a certificate of  
7 compliance or noncompliance, except for the following:

8 (1) All motorcycles ~~until the department, pursuant to Section~~  
9 ~~44012, implements test procedures applicable to motorcycles~~  
10 *manufactured prior to the 2000 model-year.*

11 (2) All motor vehicles that have been issued a certificate of  
12 compliance or noncompliance or a repair cost waiver upon a change  
13 of ownership or initial registration in this state during the preceding  
14 six months.

15 (3) All motor vehicles manufactured prior to the 1976  
16 model-year.

17 (4) (A) Except as provided in subparagraph (B), all motor  
18 vehicles four or less model-years old.

19 (B) Beginning January 1, 2005, all motor vehicles six or less  
20 model-years old, unless the state board finds that providing an  
21 exception for these vehicles will prohibit the state from meeting  
22 the requirements of Section 176(c) of the federal Clean Air Act  
23 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with  
24 respect to the state implementation plan required by the federal  
25 Clean Air Act.

26 (C) All motor vehicles excepted by this paragraph shall be  
27 subject to testing and to certification requirements as determined  
28 by the department, if any of the following apply:

29 (i) The department determines through remote sensing activities  
30 or other means that there is a substantial probability that the vehicle  
31 has a tampered emission control system or would fail for other  
32 cause a smog check test as specified in Section 44012.

33 (ii) The vehicle was previously registered outside this state and  
34 is undergoing initial registration in this state.

35 (iii) The vehicle is being registered as a specially constructed  
36 vehicle.

1 (iv) The vehicle has been selected for testing pursuant to Section  
2 44014.7 or any other provision of this chapter authorizing  
3 out-of-cycle testing.

4 (D) This paragraph does not apply to diesel-powered vehicles  
5 *or motorcycles*.

6 (5) In addition to the vehicles exempted pursuant to paragraph  
7 (4), any motor vehicle or class of motor vehicles exempted pursuant  
8 to subdivision (b) of Section 44024.5. It is the intent of the  
9 Legislature that the department, pursuant to the authority granted  
10 by this paragraph, exempt at least 15 percent of the lowest emitting  
11 motor vehicles from the biennial smog check inspection.

12 (6) All motor vehicles that the department determines would  
13 present prohibitive inspection or repair problems.

14 (7) Any vehicle registered to the owner of a fleet licensed  
15 pursuant to Section 44020 if the vehicle is garaged exclusively  
16 outside the area included in program coverage, and is not primarily  
17 operated inside the area included in program coverage.

18 (8) (A) All diesel-powered vehicles manufactured prior to the  
19 1998 model-year.

20 (B) All diesel-powered vehicles that have a gross vehicle weight  
21 rating of 8,501 to 10,000 pounds, inclusive, until the department,  
22 in consultation with the state board, pursuant to Section 44012,  
23 implements test procedures applicable to these vehicles.

24 (C) All diesel-powered vehicles that have a gross vehicle weight  
25 rating from 10,001 pounds to 13,999 pounds, inclusive, until the  
26 state board and the Department of Motor Vehicles determine the  
27 best method for identifying these vehicles, and until the department,  
28 in consultation with the state board, pursuant to Section 44012,  
29 implements test procedures applicable to these vehicles.

30 (D) All diesel-powered vehicles that have a gross vehicle weight  
31 rating of 14,000 pounds or greater.

32 (b) Vehicles designated for program coverage in enhanced areas  
33 shall be required to obtain inspections from appropriate smog  
34 check stations operating in enhanced areas.

35 (c) For purposes of subdivision (a), a collector motor vehicle,  
36 as defined in Section 259 of the Vehicle Code, is exempt from  
37 those portions of the test required by subdivision (f) of Section  
38 44012 if the collector motor vehicle meets all of the following  
39 criteria:

1 (1) Submission of proof that the motor vehicle is insured as a  
2 collector motor vehicle, as shall be required by regulation of the  
3 bureau.

4 (2) The motor vehicle is at least 35 model-years old.

5 (3) The motor vehicle complies with the exhaust emissions  
6 standards for that motor vehicle’s class and model-year as  
7 prescribed by the department, and the motor vehicle passes a  
8 functional inspection of the fuel cap and a visual inspection for  
9 liquid fuel leaks.

10 ~~(d) This section shall become operative on January 1, 2010.~~

11 SEC. 2. Section 44012.5 is added to the Health and Safety  
12 Code, to read:

13 44012.5. Beginning January 1, 2012, the department shall  
14 include model-year 2000 and newer motorcycles, registered for  
15 on-road use in California, in the inspection and maintenance  
16 program established pursuant to this chapter. The department, in  
17 cooperation with the state board, shall adopt regulations to  
18 implement this section, including prescribing test procedures for  
19 motorcycles by July 1, 2011.

20 SEC. 3. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.