

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 541 & 822
89TH GENERAL ASSEMBLY

Reported from the Committee on Commerce and Environment, February 4, 1998, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 541 and 822, adopted March 24, 1998.

Taken up for Perfection March 24, 1998. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S2087.03P

AN ACT

To repeal sections 416.605, 643.305, 643.310, 643.315, 643.320, 643.335, 643.350 and 643.355, RSMo 1994, and sections 307.366 and 643.210, RSMo Supp. 1997, relating to motor vehicle emissions, and to enact in lieu thirteen new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 416.605, 643.305, 643.310, 643.315, 643.320, 643.335, 643.350 and 643.355, RSMo 1994, and sections 307.366 and 643.210, RSMo Supp. 1997, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 307.366, 307.398, 416.605, 643.210, 643.305, 643.307, 643.310, 643.315, 643.320, 643.335, 643.350, 643.355 and 1, to read as follows:

307.366. 1. This enactment of the emissions inspection program is a mandate of the United States Congress pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. In any city not within a county, any county of the first classification having a population of over nine hundred thousand inhabitants according to the most recent decennial census, any county of the first classification with a charter form of government and a population of not more than two hundred twenty thousand inhabitants and not less than two hundred thousand inhabitants according to the most recent decennial census, any county of the first classification without a

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

charter form of government with a population of not more than one hundred eighty thousand inhabitants and not less than one hundred seventy thousand inhabitants according to the most recent decennial census and any county of the first classification without a charter form of government with a population of not more than eighty-two thousand inhabitants and not less than eighty thousand inhabitants according to the most recent decennial census, as a part of the motor vehicle inspection procedure required by sections 307.350 to 307.390, certain motor vehicles shall be tested to determine that the emissions system is functioning within the emission standards as specified by the Missouri air conservation commission and as required to attain the national health standards for air quality. **The Missouri highway patrol and the department of natural resources shall cooperate to establish a program of public information to educate citizens of any city or county described in this subsection about vehicle maintenance requirements, the costs and benefits associated with reaching attainment of the National Ambient Air Quality Standards, and the costs and benefits of all measures which are considered to attain those standards, including implementation of the repair waiver provisions of subsections 4 and 5 of this section.**

2. The provisions of this section shall not apply to:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles;

(3) Model year vehicles prior to 1971;

(4) School buses;

(5) Diesel-powered vehicles;

(6) Motor vehicles registered in the area covered by this section but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of such vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area; and

(7) New motor vehicles not previously titled or registered prior to the initial motor vehicle registration or the next **two** succeeding [registration] **registrations** which [is] **are** required by law.

Each official inspection station which conducts safety or emissions inspections in a city or county referred to in subsection 1 of this section shall indicate the gross vehicle weight rating of the motor vehicle on the safety inspection certificate if the vehicle is exempt from the emissions inspection pursuant to subdivision (1) of this subsection.

(8) Any motor vehicle sold or transferred that at the time of such sale or transfer, has any unexpired official form, sticker or other device to evidence that such motor vehicle's emissions control system was inspected and approved; provided that for any vehicle exempted pursuant to this subdivision, the purchaser may return the

vehicle if the vehicle fails, upon the next required inspection, to meet the emissions standards specified by the commission and the seller shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days, and provided that the seller of any vehicle exempted pursuant to this subdivision shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle if the vehicle fails, upon the next required inspection, to meet the emissions standards specified by the commission and to have the seller repair the vehicle and provide an emissions certificate and sticker within five working days or enter into any mutually acceptable agreement with the seller.

3. In addition to the fee authorized by subsection 5 of section 307.365, a fee, not to exceed eight dollars and fifty cents for inspections conducted prior to January 1, 1993, and not to exceed ten dollars and fifty cents for inspections conducted thereafter, as determined by each official safety and emissions inspection station located in any city or county described in subsection 1 of this section, may be charged for an automobile emissions and air pollution control inspection in order to attain the national health standards for air quality. Such fee shall be conspicuously posted on the premises of each such inspection station. The official safety and emissions inspection station shall issue a certificate of inspection and an approval sticker or seal certifying the emissions system is functioning properly. The certificate or approval issued shall bear the legend: "This cost is mandated by your United States Congress." No owner shall be charged an additional fee after having corrected defects or unsafe conditions in the automobile's emissions and air pollution control system if the reinspection is completed within twenty consecutive days, excluding Saturdays, Sundays and holidays, and if such follow-up inspection is made by the station making the initial inspection.

4. The air conservation commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which shall be no greater than seventy-five dollars for model year vehicles prior to 1981 and no greater than two hundred dollars for model year vehicles of 1981 and all subsequent model years.

5. An owner whose vehicle fails upon reinspection to meet the emission standards specified by the Missouri air conservation commission shall be issued a certificate of inspection and an approval sticker or seal by the official safety and emissions inspection station that provided the inspection if the vehicle owner furnishes a complete, signed affidavit satisfying the requirements of this subsection and the cost of emissions repairs and adjustments is equal to or greater than the waiver amount established by the air conservation commission pursuant to this section. The air conservation commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and

approval. The waiver form established pursuant to this subsection shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the inspector that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

6. The department of revenue shall require evidence of the inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.370.

7. Each safety and emissions inspection station located in any city or county described in subsection 1 of this section shall purchase from the highway patrol sufficient forms and stickers or other devices to evidence approval of the motor vehicle's emissions control system. In addition, safety and emissions inspection stations may be required to purchase forms for use in automated analyzers from outside vendors of the inspection station's choice. The forms must comply with state regulations.

8. In addition to the fee collected by the superintendent pursuant to subsection 5 of section 307.365, the highway patrol shall collect a fee of seventy-five cents for each automobile emissions certificate issued to the applicable official safety and emissions inspection stations, except that no charge shall be made for certificates of inspection issued to official safety and emissions inspection stations operated by governmental entities. All fees collected by the superintendent pursuant to this section shall be deposited in the state treasury to the credit of the "Missouri Air Pollution Control Fund", which is hereby created.

9. The moneys collected and deposited in the Missouri air pollution control fund pursuant to this section shall be allocated on an equal basis to the Missouri state highway patrol and the Missouri department of natural resources, air pollution control program, and shall be expended subject to appropriation by the general assembly for the administration and enforcement of sections 307.350 to 307.390. The unexpended balance in the fund at the end of each appropriation period shall not be transferred to the general revenue fund, except as directed by the general assembly by appropriation, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply to this fund. The moneys in the fund shall be invested by the treasurer as provided by law, and the interest shall be credited to the fund.

10. The superintendent of the Missouri state highway patrol shall issue such rules and regulations as are necessary to determine whether a motor vehicle's emissions control system is operating as required by subsection 1 of this section, and **shall have the authority to provide centralized enforcement procedures and personnel.** The superintendent and the state highways and transportation commission shall use their best efforts to seek federal funds from which reimbursement grants may be made to those official inspection stations which acquire and

use the necessary testing equipment which will be required to perform the tests required by the provisions of this section.

11. The provisions of this section shall not apply in any county for any time period during which the air conservation commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, RSMo, for such county.

12. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed a class C misdemeanor.

307.398. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated by the superintendent of the Missouri state highway patrol or the Missouri air conservation commission under the authority of sections 307.350 to 307.400, RSMo, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after the effective date of this act. All rulemaking authority delegated prior to the effective date of this act is of no force and effect and repealed as of the effective date of this act, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to the effective date of this act. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to the effective date of this act.

416.605. As used in sections 416.600 to 416.640, the following words and phrases mean:

(1) "Affiliate", any person who, other than by means of franchise, is controlled by, or is under common control with, any other person, whether through stock ownership or otherwise;

(2) "Cost", is the sum of:

(a) a. If the motor fuel is not purchased from an affiliate, the lowest invoice cost that the seller charged to the purchaser for motor fuel of like grade and quality within three days prior to the date of any alleged unlawful resale by the purchaser, less trade discounts, allowances or rebates which the purchaser receives on the particular invoice or transfer; or

b. If motor fuel is purchased or received from an affiliate, the lowest transfer price that the affiliate charged to the purchaser or receiver for motor fuel of like grade and quality within three days prior to the date of any alleged unlawful resale by the purchaser or receiver, less trade discounts, allowances, or rebates which the purchaser receives on the particular invoice or

transfer; plus

(b) The cost of doing business; plus

(c) Freight charges and all applicable federal, state and local taxes not already included in the invoice cost or transfer price;

(3) "Cost of doing business", all costs incurred in the operation of the business for fair market rental value, licenses, taxes, utilities, insurance and nonmanagerial labor;

(4) "Motor fuel", gasoline, **including reformulated gasoline**, diesel fuel, gasohol and all other fuels of a type designated for use as a motor fuel in self-propelled vehicles designated primarily for use on public streets, roads and highways;

(5) "Person", any individual, firm, partnership, corporation, association or other entity;

(6) "Retailer", any person engaged in the sale of motor fuel to the public at retail;

(7) "Retail sale", any sale of motor fuel to the public for consumption;

(8) "Sale", any transfer, gift, sale, offer for sale, or advertisement for sale in any manner or by any means, including any transfer of motor fuel by a person to himself or his affiliate;

(9) "Sell", any act of making a sale or offer for sale;

(10) "Transfer price", the price used by a person in transferring motor fuel to itself or an affiliate for resale at another marketing level.

643.210. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in this chapter shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to the effective date of this section is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

643.305. 1. The air conservation commission shall adopt a state implementation plan to bring all nonattainment areas of the state [which are located within a city not within a county, any county of the first classification having a population of over nine hundred thousand inhabitants, any county of the first classification with a charter form of government and a population of not more than two hundred twenty thousand inhabitants and not less than two hundred thousand inhabitants, any county of the first classification without a charter form of government with a population of not more than one hundred eighty thousand inhabitants and not less than one hundred seventy thousand inhabitants and any county of the

first classification without a charter form of government with a population of not more than eighty-two thousand inhabitants and not less than eighty thousand inhabitants,] into compliance with and to maintain the National Ambient Air Quality Standards and any regulations promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., on the required date or dates as such dates are established under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., including any extensions authorized pursuant to that act.

2. The commission shall establish the amount of emissions reductions required to achieve the goal established pursuant to subsection 1 of this section.

3. The department shall establish an air quality baseline for all nonattainment areas of the state [which are located within a metropolitan statistical area with a population of at least one million inhabitants as defined by the federal Office of Management and Budget or its successor agency]. The air quality baseline shall include, where practical, actual air contaminant emissions data and data on the atmospheric concentrations of pollution and pollution precursors for all nonattainment areas.

4. The department shall determine the costs and benefits of alternative reduction measures including reductions of emissions from stationary and mobile sources and traffic control measures. The department of highways and transportation, regional planning commissions and metropolitan planning organizations shall participate with the department and provide information necessary to determine the costs and benefits of emissions reduction measures.

5. The department shall evaluate any motor vehicle emissions inspection program established under section 307.366, RSMo, or sections 643.300 to 643.355 and shall annually include in the report to the commission and the general assembly required under section 643.192, beginning on January 1, 1996, a detailed accounting of the inspection costs and repair costs incurred by vehicle owners and of the emissions reductions produced or incurred by the program. The department may use a representative sample of vehicles to provide a statistically valid estimate of the repair costs and emissions reductions. The report shall also include a recommendation to the general assembly on whether the emissions inspection program should be continued, modified or terminated.

6. The department shall establish a program of public information and education to educate the citizens of the state about the costs and benefits associated with reaching attainment of the National Ambient Air Quality Standards and the costs and benefits of all measures which are considered to attain those standards. This shall be done prior to the commission's action under subsection 1 of this section.

643.307. No reformulated gasoline may be sold at any business which sells gasoline unless there is conspicuously made available an informational pamphlet free of charge to customers which explains the reason reformulated gas is being sold, the

differences in cost between reformulated gas and unleaded gasoline previously sold at the business, the differences in efficiency, horsepower, and mileage between reformulated gas and unleaded gasoline previously sold at the business, and the names of elected federal representatives and their addresses, including the Environmental Protection Agency, where the customer may write to voice his or her opinion about the forced use of reformulated gasoline. Such pamphlets shall be furnished by the department to each business at no cost to the business, and the content and language of such pamphlets shall be made by concurrent resolution of the general assembly.

643.310. 1. The commission may, by rule, establish a motor vehicle emissions inspection program [under] **pursuant to** sections 643.300 to 643.355 for any portion of a nonattainment area [located within the area described in subsection 1 of section 643.305] **if the commission determines that such motor vehicle emissions inspection program is necessary in that area to comply with the requirements of subsection 1 of section 643.305**, except **that**, for any portion of the nonattainment area which is located in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census, [if the commission determines that such motor vehicle emissions inspection program is necessary in that area to comply with the requirements of subsection 1 of section 643.305, except that no motor vehicle emission inspection program shall be established under this section in any area for which the sale or dispensing of conventional gasoline for use in motor vehicles is prohibited under the federal Clean Air Act, as amended, 42 U.S.C. 7545] **the commission may not require an inspection program using IM240 equipment. In any county of the first classification without a charter form of government and with a population not in excess of one hundred thousand persons and which is located in a nonattainment area, reformulated gasoline shall not be required in that portion of such county which is located west of 91° 4' West longitude or south of 38° 18' North latitude, or both.** The commission shall ensure that, for each nonattainment area, the state implementation plan established [under] **pursuant to** subsection 1 of section 643.305 incorporates and receives all applicable credits allowed by the United States Environmental Protection Agency for emission reduction programs in other nonattainment areas of like designation in other states. The commission shall ensure that emission reduction amounts established [under] **pursuant to** subsection 2 of section 643.305 shall be consistent with and not exceed the emissions reduction amounts required by the United States Environmental Protection Agency for other nonattainment areas of like designation in other states. No motor vehicle emissions inspection program shall be required to comply with subsection 1 of section 643.305 unless the plan established thereunder takes full advantage of any changes in requirements or any agreements made or entered into by the United States Environmental Protection Agency and any entity or entities on behalf of a nonattainment area concerning compliance with National Ambient

Air Quality Standards of the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations promulgated thereunder. The air conservation commission shall request and it shall be the duty of the attorney general to bring, in a court of competent jurisdiction, an action challenging the authority of the United States Environmental Protection Agency to impose sanctions for failure to attain National Ambient Air Quality Standards and failure to provide for required emission reductions under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. The action shall **at a minimum** seek to define the required emission reductions and the credits allowed for current and planned emission reductions measures. The air conservation commission shall request and it shall be the duty of the attorney general to bring an action to obtain injunctive relief to enjoin and restrain the imposition of sanctions on the state of Missouri under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., until all actions initiated under this section have been decided. Provisions of section 307.366, RSMo, to the contrary notwithstanding, the requirements of sections 643.300 to 643.355 shall apply to those areas designated by the commission [under] **pursuant to** this section in lieu of the provisions of section 307.366, RSMo.

2. No later than the effective date of this section, the department of natural resources and the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the administration and enforcement of section 307.366, RSMo, and sections 643.300 to 643.355.

3. (1) The department [shall contract with one or more persons to provide any motor vehicle emissions inspection program established under sections 643.300 to 643.355] with the cooperation and approval of the commissioner of administration, shall select a person or persons to operate an inspection facility or inspection program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated process or a combination thereof based on criteria and expectations established by the department. This process may use either a licensing arrangement or contractual arrangement with the selected party or parties. The selection of persons to operate inspection facilities or inspection programs shall be exempt from the provisions of all site procurement laws. The number of locations shall be no less than the number needed to provide adequate service to customers and establish an emissions inspection program which satisfies the requirements of this section. Each person who is authorized to operate a station pursuant to this section shall be capable of providing adequate and cost-effective service to customers.

(2) Service management, coordination and data processing may be provided by the department or by another person, including a contractor or licensee, based upon the most cost-effective proposal for service.

(3) A license or contract shall be for a period of up to seven years, consistent with the provisions of article IV, section 28 of the Missouri Constitution, and licenses

or contracts shall be annually reviewed. A license or contract may be suspended or revoked if the licensee or contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the license agreement or contract as determined by the department. A licensee or contractor found to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license agreement or contract shall be in violation of section 643.151 and subject to the penalties provided thereunder.

[3. The department may purchase the motor vehicle emissions inspection facilities pursuant to appropriations specifically provided for that purpose. The department may lease, sublease or license the facilities to the contractor or contractors for the purpose of fulfilling the obligations of the contract for the motor vehicle emissions inspection program.]

4. The inspection program shall satisfy the following criteria:

(1) There shall be an adequate number of stations to ensure that no more than twenty percent of all persons residing in an affected nonattainment area reside farther than five miles from the nearest inspection station, and consideration shall be given to employment, locations and commuting patterns when selecting the locations of the stations. **When selecting locations and determining the adequacy of the number and location of stations, the commission shall give public convenience the highest priority, and the opportunity for financial viability of the stations shall also be considered;**

(2) There shall be an adequate number of inspection lanes at each facility so that no more than five percent of all persons having an inspection are required to wait more than fifteen minutes before the inspection begins;

(3) **There shall be at least three stations which are capable of testing vehicles which operate only in a four-wheel-drive mode;**

(4) The days and daily hours of operation shall include at least those hours specified by the department, which shall include, at a minimum, twelve continuous hours of operation on all weekdays excepting federal holidays, and six continuous hours of operation on all Saturdays excepting federal holidays;

[(4)] (5) The emissions inspection program shall include a simulated on-road emissions inspection component, including **nonintrusive** pressure and **nonintrusive** purge tests, which satisfies **at least** the **minimum** requirements established by regulation of the United States Environmental Protection Agency **for such components and tests** and may include a visual inspection component, **provided that no vehicle that passes all emissions inspection components of the test shall be failed on the basis of the visual inspection component of the test;**

(6) **The emissions inspection program shall include a remote sensing testing and approval program if such program is established by regulation or is otherwise permitted by the United States Environmental Protection Agency and implementing the**

remote sensing testing and approval program causes no more than a five percent reduction in the amount of emissions reduction credits given the inspection and maintenance program;

[(5)] **(7)** The inspection stations shall be test-only stations and shall not offer motor vehicle emissions repairs, parts or services of any kind;

[(6)] **(8)** No person operating or employed by an emissions inspection station shall repair or maintain motor vehicle emission systems or pollution control devices for compensation of any kind;

(9) The inspections shall be performed by an inspector who has been approved and certified by the commission, and the inspector performing such inspections shall satisfy all applicable requirements of sections 643.300 to 643.355.

5. The commission, the department of economic development and the office of administration shall, in cooperation with the minority business advocacy commission, select the contractor or contractors **or licensees** to provide an inspection program which satisfies the [minimum] requirements of this section in accordance with the requirements of section 33.752, RSMo, and chapter 34, RSMo. The commission, the office of administration and the department of economic development, in cooperation with the minority business advocacy commission shall ensure adequate minority business participation, **strive to promote racial and cultural diversity, and give preference to owner operated and managed businesses** in the selection of the contractor or contractors **or licensees** to provide an inspection program [under] **pursuant to** this section. The commission, the office of administration and the department of economic development shall ensure adequate participation of Missouri businesses in the selection of the contractor or contractors **or licensees** to provide an inspection program [under] **pursuant to** this section.

6. With approval of the commission and under rules adopted by the commission, [an] **any person, entity, or** organization [whose members are motor vehicle dealers or leasing companies] may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned and held for sale or lease by the **person, entity, or** members of the organization. With approval of the commission and under rules adopted by the commission, any person operating a fleet of [five] **one** hundred or more motor vehicles may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned or leased and operated by the person establishing the facility, **and such facilities may include any or all testing components allowed pursuant to section 307.366, RSMo, or sections 643.300 to 643.355 and inspection and approval at any such facility shall constitute inspection and approval pursuant to sections 643.300 to 643.355.** The inspections performed in facilities established [under] **pursuant to** this subsection shall be performed by [a contractor selected] **an**

inspector approved and certified by the commission [under this section] and the [contractor] **inspector** performing such inspections shall [be responsible solely to the department and shall] satisfy all applicable requirements of sections 643.300 to 643.355.

7. Any person who owns Missouri analyzer system emission inspection equipment as defined by rule, used to provide emissions inspections [under] **pursuant to** section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established [under] **pursuant to** sections 643.300 to 643.355 may, within twelve months of the implementation of an emissions inspection program [under] **pursuant to** sections 643.300 to 643.355, sell such equipment, to the department of natural resources at current market value as established by an independent appraisal provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall purchase such equipment using funds appropriated for that purpose from the Missouri air emission reduction fund. Any person who, prior to January 1, 1992, contracted to lease or lease purchase, or purchased by borrowing a portion of the funds secured by a chattel mortgage, Missouri Analyzer System emission inspection equipment used to provide emissions inspections [under] **pursuant to** section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established [under] **pursuant to** sections 643.300 to 643.355, and has made all payments required under the contract, may, within twelve months of the implementation of an emissions inspection program [under] **pursuant to** sections 643.300 to 643.355, request the department of natural resources to take possession of such equipment and assume all payment obligations owed on such equipment which obligations are not in excess of one hundred and twenty-five percent of the current market value as established by an independent appraisal, provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall take possession of such equipment and pay such obligations using funds appropriated for that purpose from the Missouri air emission reduction fund.

643.315. 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are **or are to be** domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program [under] **pursuant to** sections 643.300 to 643.355 shall be inspected and approved prior to sale or transfer. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established [under] **pursuant to** sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established [under] **pursuant to** sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall

be presented at the time of registration or registration renewal of such motor vehicle.

2. No emission standard established by the commission for a given make and model year shall [exceed the lesser] **be more stringent than the less stringent** of the following:

(1) The emission standard for that vehicle model year as established by the United States Environmental Protection Agency; or

(2) The emission standard for that vehicle make and model year as established by the vehicle manufacturer.

3. The inspection requirement of subsection 1 of this section shall apply to all motor vehicles except:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(3) Model year vehicles prior to 1971;

(4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline which are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(5) Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of such vehicle presents to the department an affidavit that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355 for the next twenty-four months, and the owner applies for and receives a waiver which shall be presented at the time of registration or registration renewal; and

(6) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user.

4. The commission may, by rule, allow inspection reciprocity with other states having equivalent or more stringent testing and waiver requirements than those established [under] **pursuant to** sections 643.300 to 643.355.

5. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.250, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of sections 643.300 to 643.355 either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection[;].

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established [under] **pursuant to** sections 643.300 to 643.355 or by obtaining a waiver [under] **pursuant to** section 643.335[;]. **A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred and twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, the date of inspection shall be defined to be the date of sale.**

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within fourteen days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days[, or the dealer shall either provide a full refund of the vehicle purchase price or provide a comparable vehicle until the original vehicle is returned to the purchaser with a valid emissions certificate and sticker. If the dealer cannot return the vehicle with a valid emissions certificate and sticker within fifteen additional working days, then, at the purchaser's option, the purchaser may return the vehicle to the dealer for a full refund of the vehicle purchase price, which may include a vehicle taken on trade or the amount allowed for a vehicle taken on trade or the purchaser and dealer may enter into any other mutually acceptable agreement]. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within fourteen days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, [or the dealer shall either provide a full refund of the vehicle purchase price or provide a comparable vehicle until the original vehicle is returned to the purchaser with a valid emissions certificate and sticker or, if the vehicle cannot be inspected and approved within fifteen additional working days, then the purchaser may choose to return the vehicle for a full refund, which may include a vehicle taken on trade or the amount allowed for a vehicle taken on trade,] or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required [under] **pursuant to** sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided [under] **pursuant to** subsection 2 of section 307.380, RSMo.

643.320. 1. The commission shall establish, by rule, procedures, standards, and

requirements for the operation of emissions inspection stations and the conduct of emissions inspections.

2. The emissions inspection stations shall be operated in accordance with all requirements established by the commission [under] **pursuant to** this section.

3. The department shall cause unannounced inspections to be made of the operation of each emissions inspection station at least once during each calendar year. The inspection may include submitting a known high emission vehicle for inspection without prior disclosure to the inspection station.

4. The department may require emissions inspection stations to furnish reports, upon forms furnished by the department for that purpose, that the department considers necessary for the administration of sections 643.300 to 643.355.

5. No emissions inspection required [under] **pursuant to** sections 643.300 to 643.355 may be performed at an emissions inspection station unless there is conspicuously posted on the premises of the emissions inspection station a sign which is at least eight feet high and sixteen feet wide and which sign bears the legend: "This inspection is mandated by the United States Environmental Protection Agency under powers granted to it by your United States Senators and Representatives in Washington, D.C." A standard sign, designed by the department and containing letters of at least six inches in height, shall be used by all emissions inspection stations. Such signs shall be furnished by the department to each emissions inspection station at no cost to the station.

6. The commission shall establish, by rule, procedures, standards and requirements for the certification of emissions inspectors and for the certification of repair technicians. In establishing such procedures, standards and requirements, and in certifying inspectors or technicians pursuant to this section, the commission may adopt the tests, standards and certifications of a nationally recognized accreditation organization for automotive emissions inspectors or automotive repair technicians. Any person who demonstrates his or her knowledge and ability to conduct an inspection in compliance with the procedures, standards, and requirements established by the commission may be issued a certificate to conduct inspections pursuant to sections 643.300 to 643.355.

643.335. 1. The commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which, prior to January 1, 2001, shall be no greater than seventy-five dollars for model year vehicles prior to 1981, no greater than two hundred dollars for model year vehicles of 1981 to 1996 and no greater than four hundred and fifty dollars for model year vehicles of 1997 and all subsequent model years. On and after January 1, 2001, the commission may, by rule, set the waiver amount, except that the waiver amount shall not exceed the waiver amount provided in the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations

promulgated thereunder for the enhanced motor vehicle emissions inspection.

2. The commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval.

3. The waiver form established [under] **pursuant to** subsection 2 of this section shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the emissions inspection contractor that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

4. A vehicle which fails upon reinspection to meet the emissions standards specified by the commission shall have the emissions standards waived and receive approval only if the owner furnishes a complete, signed affidavit satisfying the requirements of subsection 3 of this section and the cost of the [repair] **parts, repairs** and adjustment work performed is equal to or greater than the waiver amount established by the commission. **Costs for repair work may only be included toward reaching the waiver amount if the repairs are performed by a repair technician certified by the commission.**

5. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are covered by an emission control performance warranty provided by the manufacturer at no additional cost to the vehicle owner unless the vehicle owner provides, with the affidavit, a written denial of warranty remedy from the motor vehicle manufacturer, dealer or other person providing the warranty.

6. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are required to correct the effects of tampering with emissions systems or air pollution control devices.

643.350. 1. A fee, not to exceed twenty-four dollars, may be charged for an emissions inspection conducted under the emissions inspection program established pursuant to sections 643.300 to 643.355, except that on days of operation, other than the last three days of operation in each calendar month, the fee shall be reduced by:

(1) Five dollars for any person who is required to wait more than fifteen minutes before the inspection begins; **and**

(2) Ten dollars for any person who is required to wait more than thirty minutes before the inspection begins[; and

(3) Twenty dollars for any person who is required to wait more than sixty minutes before the inspection begins]. **The waiting time shall begin at the time when the customer's vehicle is on the premises of the inspection station and available for inspection.**

2. The commission shall establish, by rule, a time-stamping system to ensure that the time of arrival and the time inspection begins is accurately recorded for each vehicle at each emissions

inspection facility.

3. The fee shall be conspicuously posted on the premises of each emissions inspection station. **A continuously updated electronic display depicting the current waiting time and clearly visible from the nearest street or highway shall also be posted on the premises of each emissions inspection station.**

4. The commission shall establish, by rule, the portion of the fee amount to be remitted by the contractor to the director of revenue and the number of days allowed for remitting fees.

5. The contractor shall remit the portion of fees collected, as established by the commission [under] **pursuant to** this section, to the director of revenue within the time period established by the commission. The director of revenue shall deposit the fees received in the state treasury to the credit of the "Missouri Air Emission Reduction Fund", which is hereby created. Moneys in the fund shall, subject to appropriation, be expended for the administration and enforcement of sections 643.300 to 643.355 **by the department of natural resources, the Missouri highway patrol, and other appropriate agencies.** Any balance in the fund at the end of the biennium shall remain in the fund and shall not be subject to the provisions of section 33.080, RSMo. All interest earned by moneys in the fund shall accrue to the fund.

6. In addition to funds from the Missouri air emission reduction fund, costs of capital or operations may be supplemented, upon appropriation, from the general revenue fund, the state highway department fund, federal funds or other funds available for that purpose.

643.355. 1. Any person who knowingly misrepresents himself **or herself** as an official emissions inspection station [shall be] **or a certified inspector or a certified repair technician is** guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense. Any person who is found guilty or who has pleaded guilty to a violation of this subsection shall be considered to have committed an offense for the purposes of this subsection.

2. Any person who knowingly manufactures, conveys or possesses any counterfeit or illegally obtained emissions inspection certificate or a counterfeit or illegally obtained emissions inspection sticker [shall be] **is** guilty of a class C misdemeanor for the first offense and a class B misdemeanor for any subsequent offense. Any person who is found guilty or who has pleaded guilty to a violation of this subsection shall be considered to have committed an offense for the purposes of this subsection.

3. Any person who knowingly displays or permits to be displayed, on any motor vehicle owned by such person, any counterfeit or illegally obtained emissions inspection sticker [shall be] **is** guilty of an infraction.

4. Any person who knowingly uses any counterfeit or illegally obtained emissions inspection certificate for the purpose of obtaining any motor vehicle registration [shall be] **is** guilty of an infraction for the first offense, a class C misdemeanor for the second offense and a class B

misdemeanor for any subsequent offense.

5. Any person who knowingly operates a motor vehicle required to be inspected and approved [under] **pursuant to** sections 643.300 to 643.355 without displaying a valid emissions inspection sticker as required [under] **pursuant to** section 643.315 [shall be] **is** guilty of an infraction for the first offense, a class C misdemeanor for the second offense and a class B misdemeanor for any subsequent offense.

6. Except as otherwise provided in this section, any person who violates a requirement of sections 643.300 to 643.355 or a rule promulgated to enforce sections 643.300 to 643.355 [shall be] **is** guilty of an infraction.

7. The superintendent of the highway patrol may seize documents which the superintendent suspects are counterfeit or illegally obtained in violation of this section for the purpose of enforcing this section. Any person who violates any procedural requirement of sections 643.300 to 643.355 [shall be] **is** subject to a fine, and such fine shall be not less than five times the amount of the fee charged pursuant to section 643.350 or one hundred dollars, whichever is greater, if the violation is intentional or one involving gross negligence.

8. The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to investigate and enforce motor vehicle safety inspection laws and rules pursuant to sections 307.350 to 307.390, RSMo, and sections 643.300 to 643.600. Such persons shall be designated motor vehicle inspectors and shall have limited powers to issue uniform complaint and summons for violations of motor vehicle inspection laws and rules. Such persons shall not have authority to exercise the power granted in this subsection until they have successfully completed training provided by the superintendent of the Missouri state highway patrol.

9. In any county of the first classification without a charter form of government and with a population not in excess of one hundred thousand persons and which is located in a nonattainment area, the unincorporated portion of such county shall be exempt from state open burning regulations, including regulations under 10 CSR 10-5.070, until such county has attained a population of at least one hundred thousand persons.

10. There shall be an agricultural exemption from the implementation of reformulated gasoline (RFB) where a distributor has a bulk plant located in the non-attainment area and services agricultural business outside said non-attainment area subject to reformulated gasoline.

[643.210. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

Section 1. The governor, the department of natural resources, and the commission shall work to ensure an orderly transition period in the nonattainment

area for the introduction of reformulated gasoline. Priority shall be given to ensure the petroleum manufacturers ample time to organize, structure, and implement both the production and the delivery of reformulated gasoline to the nonattainment area, so that consumers will see an orderly, seamless market substitution.

Unofficial

Bill

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