

SENATE No. 1690

The Commonwealth of Massachusetts

SENATE, May 31, 1990.

The committee on Ways and Means, to whom was committed the House Bill further regulating motor vehicle emissions standards (House, No. 5593), reports recommending that the same ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 1690.

For the committee,

JOHN W. OLVER.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

1 SECTION 1. Section 2 of chapter 90 of the General Laws is
2 hereby amended by adding the following paragraph: —

3 The registrar shall not register any motor vehicle which does
4 not comply with the provisions of section one hundred and forty-
5 two K of chapter one hundred and eleven and regulations
6 pursuant thereto, or qualify as an exemption under subsection (b)
7 of said section one hundred and forty-two K. Upon a
8 determination that a motor vehicle is exempt under said section
9 one hundred and forty-two K it shall forever be exempt and the
10 exemption shall be noted on the title of the vehicle. The registrar
11 shall not register any motor vehicle which has not complied with
12 any emission system related recall. Whoever through fraud or
13 misrepresentation procures or attempts to procure the registration
14 of a motor vehicle in violation of the provisions of this paragraph
15 shall be subject to a fine of not more than twenty-five thousand
16 dollars or by imprisonment for not more than one year, or both
17 such fine and imprisonment, and shall be subject to a civil penalty
18 of not more than twenty-five thousand dollars for each violation.
19 Such penalties shall be in addition to any other penalties provided
20 for any violation of this section. The civil penalty may be assessed
21 in an action brought on behalf of the commonwealth in any court
22 of competent jurisdiction.

1 SECTION 2. Chapter 111 of the General Laws is hereby
2 amended by inserting after section 142J the following section: —

3 Section 142K. (a) In addition to section one hundred and forty-
4 two J which authorizes the department to establish and administer
5 an inspection and maintenance program for in-use vehicles, for
6 model years beginning with the model year nineteen hundred and
7 ninety-three or as soon thereafter as allowable under federal law,
8 the department of environmental protection, hereinafter referred
9 to as the department in this section, shall adopt California's duly
10 promulgated motor vehicle emissions standards unless after a
11 public hearing the department establishes, based on substantial

12 evidence, that California's emissions standards and a compliance
13 program similar to California's will not achieve, in the aggregate,
14 greater motor vehicle pollution reductions than the federal
15 standards and compliance program for any such model year. The
16 department shall publicly issue detailed written findings before
17 and after holding a public hearing pursuant to this paragraph and
18 said hearing shall be subject to the provisions for public hearings
19 contained in chapter thirty A. A decision not to adopt California's
20 standards shall only apply as long as the federal standards and
21 California standards do not change. Emissions standards adopted
22 pursuant to this section shall include California's one hundred
23 thousand mile certification standards.

24 Notwithstanding any other provision of this section, the
25 department may postpone, for no more than one year, adopting
26 California's motor vehicle emission standards if the department
27 makes a written determination that none of the following states
28 is likely to adopt California's motor vehicle emission standards
29 for model year nineteen hundred and ninety-three pursuant to the
30 requirements of 42 USC 7507: Connecticut, Maine, New
31 Hampshire, New Jersey, New York, Rhode Island, and Vermont.
32 The department may further postpone adopting California's
33 motor vehicle emission standards for an additional year if the
34 department makes a written determination that none of the
35 aforesaid listed states is likely to adopt California's motor vehicle
36 emission standards for model year nineteen hundred and ninety-
37 four.

38 (b) No corporation, person or other entity shall sell or offer
39 for sale a motor vehicle or motor vehicle engine manufactured
40 during or after the first model year that the California motor
41 vehicle emissions standards as specified in subsection (a) are in
42 effect which is intended for use primarily in the commonwealth
43 and which has not been certified according to regulations
44 promulgated by the department; provided, however, that
45 reasonable exemptions may be made by the department (1) for
46 out-of-state registered vehicles transferred by inheritance, or by
47 decree of divorce, dissolution, or legal separation entered by a
48 court of competent jurisdiction; (2) for vehicles purchased by non-
49 residents prior to establishing residency in the commonwealth;
50 and (3) for used vehicles, as defined by regulations of the
51 department, which were originally purchased in states with

52 emission standards different from the standards of the
53 commonwealth. Upon the granting of an exemption from the
54 provisions of this section, a motor vehicle shall forever be
55 exempted. The department may promulgate regulations including
56 but not limited to prohibitions on the purchase, importation,
57 delivery, receipt, rental, leasing or acquisition of motor vehicles
58 or motor vehicle engines not in compliance with the provisions
59 of this section.

60 (c) By August first, nineteen hundred and ninety, the
61 department shall promulgate regulations to ensure maximum
62 motor vehicle pollution reductions pursuant to the provisions of
63 this section, including but not limited to: engine family
64 certification standards; after-market parts certification; one
65 hundred percent assembly line functional testing; two percent
66 manufacturer quality audits; post assembly line pre-sale new
67 vehicle testing; dealership inspection; in-use testing; anti-
68 tampering protections; on-board diagnostics; and warranty and
69 recall requirements. The promulgation of these regulations may
70 be postponed in accordance with the provisions of subsection (a)
71 concerning postponement, but in no event shall the department
72 promulgate regulations later than June first, nineteen hundred
73 and ninety-two.

74 (d) The manufacturer's warranty for passenger vehicles
75 certified pursuant to subsection (a) shall extend, at a minimum
76 for three years or fifty thousand miles for emissions related parts
77 with a retail cost of less than three hundred dollars and seven years
78 or seventy thousand miles for emissions related parts with a retail
79 cost of three hundred dollars or more. The department shall
80 periodically adjust said three hundred dollars repair level by the
81 percentage change in the consumer price index, as published by
82 the United States Bureau of Labor Statistics. For the model year
83 1993, if the California motor vehicle emissions standards as
84 specified in subsection (a) are in effect, manufacturers shall report
85 to the department all repairs made under warranty if the number
86 of repairs on a specific model, for a specific emissions part, exceeds
87 four percent of the total number of the model sold. For model
88 year 1994 and subsequent model years, if the California motor
89 vehicle emissions standards as specified in subsection (a) are in
90 effect, manufacturers shall report to the department all repairs
91 made under warranty if the number of repairs on a specific model,

92 for a specific emissions part, exceeds two percent of the total
93 number of the model sold.

94 Any corporation, person, municipality, or other entity which
95 violates the requirements of this section or any regulation adopted
96 pursuant to this section shall: (i) be punished by a fine of not more
97 than twenty-five thousand dollars or by imprisonment for not
98 more than one year, or both such fine and imprisonment, and (ii)
99 shall be subject to a civil penalty of not more than twenty-five
100 thousand dollars for each such violation. Each day that a violation
101 for any motor vehicle continues shall be a separate offense. The
102 civil penalty may be assessed in an action brought on behalf of
103 the commonwealth in any court of competent jurisdiction.

104 The penalties imposed under this subsection shall be in addition
105 to all other enforcement powers of the department under
106 applicable law.

107 (e) The provisions of this section are intended only as minimum
108 requirements of the commonwealth's motor vehicle emissions
109 program and shall not limit the department's authority to adopt
110 and implement the strictest air quality regulations allowed under
111 federal and state law.

112 (f) To decrease the impact of out-of-state generated auto
113 emissions on the air quality of the commonwealth, the department
114 is hereby directed to work in cooperation with other states to
115 facilitate Massachusetts' and other states' adoption of more
116 stringent motor vehicle emissions control programs. The
117 department is authorized to work in cooperation with and enter
118 into contracts with other states in generating and reviewing
119 certification, testing, recall and warranty data so long as such
120 cooperation does not limit the effectiveness of the program
121 established by this section and the department may adopt other
122 states' certification results by reference.

123 (g) The duties and obligations imposed by this section shall
124 be in addition to all other duties and obligations imposed by any
125 other general or special law or regulation.

1 SECTION 3. No later than February 1, 1991, the executive
2 office for administration and finance shall, in consultation with
3 the department, levy fees upon motor vehicle manufacturers
4 commensurate with the costs of implementing this section.

