

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1354

Chapter 342, Laws of 1998

55th Legislature
1998 Regular Session

AIR POLLUTION CONTROL--REVISIONS

EFFECTIVE DATE: 6/11/98

Passed by the House March 12, 1998
Yeas 98 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 12, 1998
Yeas 39 Nays 7

BRAD OWEN
President of the Senate

Approved April 3, 1998

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1354** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 3, 1998 - 5:30 p.m.

**Secretary of State
State of Washington**

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1354

AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Appropriations (originally sponsored by
Representatives Pennington, Mielke, Dunn and Boldt)

Read first time 03/10/97.

1 AN ACT Relating to air pollution control; amending RCW 70.94.130,
2 70.120.070, 70.120.100, 70.120.170, 46.16.015, and 70.94.473; adding a
3 new section to chapter 70.120 RCW; creating a new section; and
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 70.94.130 and 1991 c 199 s 705 are each amended to
7 read as follows:

8 The board shall exercise all powers of the authority except as
9 otherwise provided. The board shall conduct its first meeting within
10 thirty days after all of its members have been appointed or designated
11 as provided in RCW 70.94.100. The board shall meet at least ten times
12 per year. All meetings shall be publicly announced prior to their
13 occurrence. All meetings shall be open to the public. A majority of
14 the board shall constitute a quorum for the transaction of business and
15 shall be necessary for any action taken by the board. The board shall
16 elect from its members a chair and such other officers as may be
17 necessary. Any member of the board may designate a regular alternate
18 to serve on the board in his or her place with the same authority as
19 the member when he or she is unable to attend. In no event may a

1 regular alternate serve as the permanent chair. Each member of the
2 board, or his or her representative, shall receive from the authority
3 compensation consistent with such authority's rates (but not to exceed
4 one thousand dollars per year) for time spent in the performance of
5 duties under this chapter, plus the actual and necessary expenses
6 incurred by the member in such performance. The board may appoint a
7 control officer, and any other personnel, and shall determine their
8 salaries, and pay same, together with any other proper indebtedness,
9 from authority funds.

10 **Sec. 2.** RCW 70.120.070 and 1991 c 199 s 203 are each amended to
11 read as follows:

12 (1) Any person:

13 (a) Whose motor vehicle is tested pursuant to this chapter and
14 fails to comply with the emission standards established for the
15 vehicle; and

16 (b) Who, following such a test, expends more than one hundred
17 dollars on a 1980 or earlier model year motor vehicle or expends more
18 than one hundred fifty dollars on a 1981 or later model year motor
19 vehicle for repairs solely devoted to meeting the emission standards
20 and that are performed by a certified emission specialist authorized by
21 RCW 70.120.020(2)(a); and

22 (c) Whose vehicle fails a retest, may be issued a certificate of
23 acceptance if (i) the vehicle has been in use for more than five years
24 or fifty thousand miles, and (ii) any component of the vehicle
25 installed by the manufacturer for the purpose of reducing emissions, or
26 its appropriate replacement, is installed and operative.

27 To receive the certificate, the person must document compliance
28 with (b) and (c) of this subsection to the satisfaction of the
29 department.

30 Should any provision of (b) of this subsection be disapproved by
31 the administrator of the United States environmental protection agency,
32 all vehicles shall be required to expend at least four hundred fifty
33 dollars to qualify for a certificate of acceptance.

34 (2) Persons who fail the initial tests shall be provided with:

35 (a) Information regarding the availability of federal warranties
36 and certified emission specialists;

37 (b) Information on the availability and procedure for acquiring
38 license trip-permits;

1 (c) Information on the availability and procedure for receiving a
2 certificate of acceptance; and

3 (d) The local phone number of the department's local vehicle
4 specialist.

5 **Sec. 3.** RCW 70.120.100 and 1979 ex.s. c 163 s 10 are each amended
6 to read as follows:

7 The department shall investigate complaints received regarding the
8 operation of emission testing stations and shall require corrections or
9 modifications in those operations when deemed necessary.

10 The department shall also review complaints received regarding the
11 maintenance or repairs secured by owners of motor vehicles for the
12 purpose of complying with the requirements of this chapter. When
13 possible, the department shall assist such owners in determining the
14 merits of the complaints.

15 The department shall keep a copy of all complaints received, and on
16 request, make copies available to the public. This is not intended to
17 require disclosure of any information that is exempt from public
18 disclosure under chapter 42.17 RCW.

19 **Sec. 4.** RCW 70.120.170 and 1991 c 199 s 208 are each amended to
20 read as follows:

21 (1) The department shall administer a system for emission
22 inspections of all motor vehicles, except those described in RCW
23 46.16.015(2), that are registered within the boundaries of each
24 emission contributing area. Under such system a motor vehicle shall be
25 inspected biennially except where an annual program would be required
26 to meet federal law and prevent federal sanctions. In addition, motor
27 vehicles shall be inspected at each change of registered owner of a
28 licensed vehicle as provided under RCW 46.16.015.

29 (2) The director shall:

30 (a) Adopt procedures for conducting emission inspections of motor
31 vehicles. The inspections may include idle and high revolution per
32 minute emission tests. The emission test for diesel vehicles shall
33 consist solely of a smoke opacity test.

34 (b) Adopt criteria for calibrating emission testing equipment.
35 Electronic equipment used to test for emissions standards provided for
36 in this chapter shall be properly calibrated. The department shall

1 examine frequently the calibration of the emission testing equipment
2 used at the stations.

3 (c) Authorize, through contracts, the establishment and operation
4 of inspection stations for conducting vehicle emission inspections
5 authorized in this chapter. No person contracted to inspect motor
6 vehicles may perform for compensation repairs on any vehicles. No
7 public body may establish or operate contracted inspection stations.
8 Any contracts must be let in accordance with the procedures established
9 for competitive bids in chapter 43.19 RCW.

10 (3) Subsection (2)(c) of this section does not apply to volunteer
11 motor vehicle inspections under RCW 70.120.020(1) if the inspections
12 are conducted for the following purposes:

13 (a) Auditing;

14 (b) Contractor evaluation;

15 (c) Collection of data for establishing calibration and performance
16 standards; or

17 (d) Public information and education.

18 (4)(a) The director shall establish by rule the fee to be charged
19 for emission inspections. The inspection fee shall be a standard fee
20 applicable state-wide or throughout an emission contributing area and
21 shall be no greater than (~~eighteen~~) fifteen dollars. Surplus moneys
22 collected from fees over the amount due the contractor shall be paid to
23 the state and deposited in the general fund. Fees shall be set at the
24 minimum whole dollar amount required to (i) compensate the contractor
25 or inspection facility owner, and (ii) offset the general fund
26 appropriation to the department to cover the administrative costs of
27 the motor vehicle emission inspection program.

28 (b) Before each inspection, a person whose motor vehicle is to be
29 inspected shall pay to the inspection station the fee established under
30 this section. The person whose motor vehicle is inspected shall
31 receive the results of the inspection. If the inspected vehicle
32 complies with the standards established by the director, the person
33 shall receive a dated certificate of compliance. If the inspected
34 vehicle does not comply with those standards, one reinspection of the
35 vehicle shall be afforded without charge.

36 (5) All units of local government and agencies of the state with
37 motor vehicles garaged or regularly operated in an emissions
38 contributing area shall test the emissions of those vehicles annually
39 to ensure that the vehicle's emissions comply with the emission

1 standards established by the director. All state agencies outside of
2 emission contributing areas with more than twenty motor vehicles housed
3 at a single facility or contiguous facilities shall test the emissions
4 of those vehicles annually to ensure that the vehicles' emissions
5 comply with standards established by the director. A report of the
6 results of the tests shall be submitted to the department.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.120 RCW
8 to read as follows:

9 The department shall establish a scientific advisory board to
10 review plans to establish or expand the geographic area where an
11 inspection and maintenance system for motor vehicle emissions is
12 required. The board shall consist of three to five members. All
13 members shall have at least a master's degree in physics, chemistry, or
14 engineering, or a closely related field. No member may be a current
15 employee of a local air pollution control authority, the department,
16 the United States environmental protection agency, or a company that
17 may benefit from a review by the board.

18 The board shall review an inspection and maintenance plan at the
19 request of a local air pollution control authority, the department, or
20 by a petition of at least fifty people living within the proposed
21 boundaries of a vehicle emission inspection and maintenance system.
22 The entity or entities requesting a scientific review may include
23 specific issues for the board to consider in its review. The board
24 shall limit its review to matters of science and shall not provide
25 advice on penalties or issues that are strictly legal in nature.

26 The board shall provide a complete written review to the
27 department. If the board members are not in agreement as to the
28 scientific merit of any issue under review, the board may include a
29 dissenting opinion in its report to the department. The department
30 shall immediately make copies available to the local air pollution
31 control authority and to the public.

32 The department shall conduct a public hearing, within the area
33 affected by the proposed rule, if any significant aspect of the rule is
34 in conflict with a majority opinion of the board. The department shall
35 include in its responsiveness summary the rationale for including a
36 rule that is not consistent with the review of the board, including a
37 response to the issues raised at the public hearing.

1 Members shall be reimbursed for travel expenses as provided in RCW
2 43.03.050 and 43.03.060.

3 **Sec. 6.** RCW 46.16.015 and 1991 c 199 s 209 are each amended to
4 read as follows:

5 (1) Neither the department of licensing nor its agents may issue or
6 renew a motor vehicle license for any vehicle or change the registered
7 owner of a licensed vehicle, for any vehicle that is required to be
8 inspected under chapter 70.120 RCW, unless the application for issuance
9 or renewal is: (a) Accompanied by a valid certificate of compliance or
10 a valid certificate of acceptance issued pursuant to chapter 70.120
11 RCW; or (b) exempted from this requirement pursuant to subsection (2)
12 of this section. The certificates must have a date of validation which
13 is within six months of the date of application for the vehicle license
14 or license renewal. Certificates for fleet or owner tested diesel
15 vehicles may have a date of validation which is within twelve months of
16 the assigned license renewal date.

17 (2) Subsection (1) of this section does not apply to the following
18 vehicles:

19 (a) New motor vehicles whose equitable or legal title has never
20 been transferred to a person who in good faith purchases the vehicle
21 for purposes other than resale;

22 (b) Motor vehicles with a model year of 1967 or earlier;

23 (c) Motor vehicles that use propulsion units powered exclusively by
24 electricity;

25 (d) Motor vehicles fueled by propane, compressed natural gas, or
26 liquid petroleum gas, unless it is determined that federal sanctions
27 will be imposed as a result of this exemption;

28 (e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles
29 as defined in RCW 46.04.332;

30 (f) Farm vehicles as defined in RCW 46.04.181;

31 (g) Used vehicles which are offered for sale by a motor vehicle
32 dealer licensed under chapter 46.70 RCW; (~~or~~)

33 (h) Classes of motor vehicles exempted by the director of the
34 department of ecology;

35 (i) Collector cars as identified by the department of licensing
36 under RCW 46.16.305(1); or

37 (j) Beginning January 1, 2000, vehicles that are less than five
38 years old or more than twenty-five years old.

1 The provisions of ((subparagraph)) (a) of this subsection may not
2 be construed as exempting from the provisions of subsection (1) of this
3 section applications for the renewal of licenses for motor vehicles
4 that are or have been leased.

5 (3) The department of ecology shall provide information to motor
6 vehicle owners regarding the boundaries of emission contributing areas
7 and restrictions established under this section that apply to vehicles
8 registered in such areas. In addition the department of ecology shall
9 provide information to motor vehicle owners on the relationship between
10 motor vehicles and air pollution and steps motor vehicle owners should
11 take to reduce motor vehicle related air pollution. The department of
12 licensing shall send to all registered motor vehicle owners affected by
13 the emission testing program notice that they must have an emission
14 test to renew their registration.

15 NEW SECTION. **Sec. 7.** (1) The department of ecology shall evaluate
16 changes to the motor vehicle emission inspection program made in RCW
17 46.16.015(2)(j) and other options that meet air quality objectives and
18 lessen the effect of the program on the motorist. The department shall
19 consider air quality, program costs, and motorist convenience in its
20 evaluation and make recommendations for changes to the program to the
21 appropriate standing committees of the legislature by January 1, 1999.

22 (2) This section expires June 30, 1999.

23 **Sec. 8.** RCW 70.94.473 and 1995 c 205 s 1 are each amended to read
24 as follows:

25 (1) Any person in a residence or commercial establishment which has
26 an adequate source of heat without burning wood shall:

27 (a) Not burn wood in any solid fuel burning device whenever the
28 department has determined under RCW 70.94.715 that any air pollution
29 episode exists in that area;

30 (b) Not burn wood in any solid fuel burning device except those
31 which are either Oregon department of environmental quality phase II or
32 United States environmental protection agency certified or certified by
33 the department under RCW 70.94.457(1) or a pellet stove either
34 certified or issued an exemption by the United States environmental
35 protection agency in accordance with Title 40, Part 60 of the code of
36 federal regulations, in the geographical area and for the period of
37 time that a first stage of impaired air quality has been determined, by

1 the department or any authority, for that area. A first stage of
2 impaired air quality is reached when particulates ten microns and
3 smaller in diameter are at an ambient level of ((~~seventy-five~~)) sixty
4 micrograms per cubic meter measured on a twenty-four hour average or
5 when carbon monoxide is at an ambient level of eight parts of
6 contaminant per million parts of air by volume measured on an eight-
7 hour average; and

8 (c) Not burn wood in any solid fuel burning device in a
9 geographical area and for the period of time that a second stage of
10 impaired air quality has been determined by the department or any
11 authority, for that area. A second stage of impaired air quality is
12 reached when particulates ten microns and smaller in diameter are at an
13 ambient level of one hundred five micrograms per cubic meter measured
14 on a twenty-four hour average.

15 (2) Actions of the department and local air pollution control
16 authorities under this section shall preempt actions of other state
17 agencies and local governments for the purposes of controlling air
18 pollution from solid fuel burning devices, except where authorized by
19 chapter 199, Laws of 1991.

Passed the House March 12, 1998.

Passed the Senate March 12, 1998.

Approved by the Governor April 3, 1998.

Filed in Office of Secretary of State April 3, 1998.