

House Bill 676

By: Representatives Millar of the 52nd, McCall of the 78th, Willard of the 40th, Campbell of the 39th and Drenner of the 57th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 9 of Title 12 of the Official Code of Georgia Annotated,
2 relating to motor vehicle emission inspection and maintenance, so as define a term; to change
3 certain provisions regarding scope of application of said article; to change certain provisions
4 regarding time frames for startup of inspection and maintenance programs; to provide for a
5 motor vehicle emissions fund to support emissions reduction programs; to provide that the
6 Board of Natural Resources shall prescribe rules and regulations and implement procedures
7 for the use of remote sensing technology emissions inspections; to provide that the
8 Department of Natural Resources shall issue certificates to vehicles passing remote sensing
9 tests exempting such vehicles from regularly scheduled emissions inspections; to provide for
10 a fee to be collected by the department from owners of motor vehicles that are issued
11 certificates to support emissions reduction programs; to provide for approval of remote
12 sensing equipment and procedures; to provide for an effective date; to provide for related
13 matters; to provide that the effectiveness of this Act shall be conditioned upon the approval
14 by the voters of a certain constitutional amendment; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Article 2 of Chapter 9 of Title 12 of the Official Code of Georgia Annotated, relating to
19 prevention and control of air pollution, relating to motor vehicle emissions inspection and
20 maintenance, is amended by inserting a new paragraph (17.1) in Code Section 12-9-43,
21 relating to definitions, to read as follows:

22 "(17.1) 'Motor vehicle emissions reduction programs' means programs determined by the
23 director to encourage and achieve reductions of emissions of hydrocarbons, nitrogen
24 oxides, carbon monoxide, or particulate matter from vehicles propelled by power other than
25 muscle power, and used for transportation of persons or property on highways, off
26 highways, or upon tracks."

SECTION 2.

Said article is further amended by striking Code Section 12-9-44, relating to uniformity and scope of application of article, and inserting in its place the following:

"(a) This article shall operate uniformly throughout the state. The provisions and requirements of this article shall apply in each county or any portion of a county which has been designated by the USEPA in the Code of Federal Regulations as a county or area included within a nonattainment area that is required by the federal Clean Air Act and regulations of the USEPA promulgated pursuant to such act to have a vehicle inspection and maintenance program and which the board designates, through rule or regulation, as a county area where the excess levels of ozone or carbon monoxide or both are directly related to emissions of hydrocarbons, nitrogen oxides, or carbon monoxide from responsible motor vehicles registered in such county or area or portion of a county subject to the requirements of this article.

(b) The provisions and requirements of this article may apply in each county or any portion of a county which has been designated by the USEPA in the Code of Federal Regulations as a county or area included within a nonattainment area and which the board designates, through rule or regulation, as a county or portion of a county subject to the requirements of this article.

(c) This article shall continue to apply in each such county or portion of a county or area so designated until the USEPA removes such county or area from the Code of Federal Regulations as a nonattainment area and approves an air quality implementation plan which allows the state to maintain the NAAQS in such county without a vehicle inspection program."

SECTION 3.

Said article is further amended by striking Code Section 12-9-45, relating to certificate of emission inspection, and inserting in its place the following:

"(a) In each county to which this article applies, there is required a valid certificate of emission inspection issued by an emission inspection station certified under this article for each responsible motor vehicle registered pursuant to or subject to the requirements of Chapter 2 of Title 40 in such county. A valid certificate of emission inspection is also required for each responsible motor vehicle owned by any federal agency, state agency, municipality, or other political subdivision registered pursuant to Code Section 40-2-34 or 40-2-35, whichever is applicable, and assigned for use to any federal agency, state agency, municipality, or other political subdivision located in such county and for each responsible motor vehicle which is operated 60 days or more in any calendar year on a federal installation located in whole or in part in any such county.

1 (b) A certificate of emission inspection shall be valid for one inspection term. The owner
2 of each responsible motor vehicle subject to subsection (a) of this Code section is required
3 to obtain a new certificate of emission inspection on or before the date the current
4 certificate of emission inspection expires or prior to the vehicle registration date in the year
5 following the expiration of the certificate, as determined by the board.

6 (c) Such certificate of emission inspection must certify that:

7 (1) An inspection of exhaust emissions of hydrocarbons, nitrogen oxides, and carbon
8 monoxide and evaporative emissions of hydrocarbons, as required by Code Section
9 12-9-48, has been performed;

10 (2) The responsible motor vehicle complies, as required by Code Section 12-9-48, with
11 applicable emission standards or emission limitations for hydrocarbons, nitrogen oxides,
12 and carbon monoxide specified for such vehicle by the board pursuant to Code Section
13 12-9-46;

14 (3) An inspection, as required by Code Section 12-9-48, of emission control equipment
15 which was required to be installed on such motor vehicle when new by the federal Clean
16 Air Act and is required to be inspected by the board in the regulations promulgated
17 pursuant to this article has been performed and that such equipment is present and has
18 been maintained as required by Code Section 12-9-48; and

19 (4) An inspection, as required by Code Section 12-9-48, of on-board diagnostic
20 equipment which was required to be installed on such motor vehicle when new by the
21 federal Clean Air Act and is required to be inspected by the board in the regulations
22 promulgated pursuant to this article has been performed, as required by Code Section
23 12-9-48.

24 ~~(d) In any county or area not designated by the USEPA as a nonattainment area as of~~
25 ~~November 1, 1990, which is subsequently designated by the board as a nonattainment area~~
26 ~~subject to this article, the department shall have 12 months from the date such designation~~
27 ~~occurs to establish a program for emission inspection of responsible motor vehicles in such~~
28 ~~county or area; provided, however, that for purposes of this article, the earliest date such~~
29 ~~county or area shall be considered as having been designated as a nonattainment area shall~~
30 ~~be July 1, 1992. Notwithstanding the provisions of subsection (a) of this Code section, in~~
31 ~~such counties or areas a certificate of emission inspection shall not be required during this~~
32 ~~initial 12-month period. Following such initial 12-month period, owners of responsible~~
33 ~~motor vehicles in such counties or areas shall obtain a valid certificate of emission~~
34 ~~inspection no later than the date established by the board.~~

35 ~~(e)~~ (d) In each county or area subject to this article on July 1, 1992, owners of responsible
36 motor vehicles shall obtain a valid certificate of emission inspection issued pursuant to this
37 article not later than June 30, 1993.

1 ~~(f)~~ (e) The requirements of paragraphs (1) through (4) of subsection (c) of this Code section
 2 shall remain in effect in each county or area either during such time as such county or any
 3 part of the county continues to be designated by the USEPA pursuant to the federal Clean
 4 Air Act as a nonattainment area or during such time as the emission program for each such
 5 county is contained in the state's air quality maintenance plan.

6 ~~(g)~~ (f) Notwithstanding the other provisions of this Code section, the requirements of this
 7 article shall not apply to vehicles registered as specified in subsection (a) of this Code
 8 section where the owner of such vehicle certifies, under oath and subject to the monetary
 9 penalty provided in Code Section 16-10-71 upon conviction for false swearing therein,
 10 which certification may be made either by mail and accompanied by a photocopy of the
 11 person's military identification card or in person, that:

12 (1) Such vehicle is so registered by a Georgia resident on active duty in the armed
 13 services of the United States then residing outside the State of Georgia;

14 (2) At the time the provisions of this article are being or are sought to be enforced with
 15 respect to such vehicle, the owner's domicile or, if such vehicle is primarily used in
 16 connection with some established business enterprise, such established business
 17 enterprise is not located in any county wherein any responsible motor vehicle is subject
 18 to the requirements of this article; or

19 (3) Such vehicle is or will be, during the inspection term for which the provisions of this
 20 article are being or are sought to be enforced with respect to such motor vehicle,
 21 permanently assigned or let for use to a person not domiciled or an established business
 22 enterprise not located in any county wherein any responsible motor vehicle is subject to
 23 the requirements of this article.

24 The director shall provide the forms for any such certification.

25 ~~(h)~~ (g) Vehicles that are driven less than 5,000 miles per year and are ten years old or older
 26 will be exempted from testing, provided that the owner of such vehicle is 65 years old or
 27 older.

28 ~~(i)~~ (h) Antique and collector cars and trucks 25 years old or older will be exempted from
 29 testing."

30 SECTION 4.

31 Said article is further amended by inserting a new Code Section 12-9-46.1 to read as follows:

32 "12-9-46.1.

33 There is established a special fund to be known as the 'motor vehicle emissions fund.' This
 34 fund shall consist of all moneys collected under paragraph (2) of subsection (c) of Code
 35 Section 12-9-47, any appropriations by the General Assembly to the fund, any
 36 contributions to the fund from any other source, and all interest thereon. All balances in

1 the fund shall be deposited in an interest-bearing account identifying the fund and shall be
 2 carried forward each year so that no part thereof may be deposited in the general treasury.
 3 The department shall administer the fund and expend moneys held in the fund in
 4 furtherance of motor vehicle emissions reduction programs. In addition to the foregoing,
 5 the department may, without limitation, promote and solicit voluntary contributions and
 6 develop any fund raising or other promotional techniques deemed appropriate by the
 7 department. Contributions to the fund shall be deemed supplemental to and shall in no way
 8 supplant funding that would otherwise be appropriated for these purposes."

9 **SECTION 5.**

10 Said article is further amended by striking Code Section 12-9-47, relating to further powers
 11 and duties of the board and designation of department personnel as board's agents, and
 12 inserting in its place the following:

13 "12-9-47.

14 (a) The board shall have and may exercise the following powers and duties under this
 15 article:

16 (1) To prescribe by rule or regulation standards, requirements, or procedures to ensure
 17 the uniform operation of official emission inspection stations in a sufficient number, at
 18 such locations, and in a manner satisfactory to the board and in conformance with all
 19 standards, requirements, and specifications prescribed for such inspection stations,
 20 procedures, personnel, and equipment by the board pursuant to this article;

21 (2) To prescribe by rule or regulation procedures for licensing mechanic inspectors under
 22 this article;

23 (3) To prescribe by rule or regulation procedures for certification of authorized emission
 24 inspection stations which shall be certified by the department to inspect responsible motor
 25 vehicle emissions, responsible motor vehicle emission control equipment, and on-board
 26 diagnostic equipment for compliance with the requirements of this article;

27 (4) To prescribe by rule or regulation forms, applications, certificates, licenses, or other
 28 documentation which may be required by the department to administer and implement
 29 this article;

30 (5) To prescribe by rule or regulation procedures, standards, and methods for inspecting
 31 emission inspection stations or other establishments to enforce and ensure compliance
 32 with the requirements of this article;

33 (6) To prescribe by rule or regulation procedures or methods of scheduling responsible
 34 motor vehicles for emission inspection during any inspection term; and

35 (7) To prescribe by rule or regulation procedures for identifying, through the use of
 36 remote sensing technology or other means, vehicles which are producing excessive

1 exhaust emissions at times other than their regularly scheduled inspection. The board may
2 require that any such vehicle undergo an official emission inspection as prescribed by
3 subsection (a) of Code Section 12-9-48, whether or not such vehicle is covered by a valid
4 certificate of emission inspection. The board may prescribe that the owner of any such
5 vehicle which fails to pass such inspection perform repairs and pass a reinspection in the
6 same manner as provided by subsection (d) of Code Section 12-9-48.

7 (b) With respect to the powers vested in the board pursuant to subsection (a) of this Code
8 section, the board may designate personnel of the department as the board's agents in
9 exercising the powers so vested.

10 (c)(1) The board shall prescribe by rule or regulation and implement procedures for
11 measuring, through the use of remote sensing technology or other means, exhaust
12 emissions from vehicles at times other than their regularly scheduled inspection. Any
13 vehicle undergoing such remote sensing shall have its license tag number recorded for
14 reference, and the vehicle's emissions shall be classified into one of four categories:
15 significantly below standard, likely below standard, questionable, or likely high emitter.
16 Such rule or regulation shall consider the number of readings, the time period between
17 readings, the number of random readings, and likely high emitter readings to allow a
18 vehicle to be eligible for a certificate from the department which shall exempt such
19 vehicle from the emission inspection requirements of this article for the next inspection
20 term. Any vehicle recorded with a likely high emitter reading shall not be eligible for
21 such a certificate during the next emissions inspection term.

22 (2) A fee shall be collected by the department from the owner of any vehicle which is
23 issued a certificate provided for in paragraph (1) of this subsection; provided, however,
24 that such fee shall be no less than \$10.00 and no more than \$20.00 per certificate. The
25 fee shall be used for operation of the remote sensing equipment and for database and
26 administrative support, including public information and outreach, and \$3.00 of such fee
27 shall be retained by the department and deposited into the motor vehicle emissions fund.

28 (3) For the remote sensing authorized by paragraph (7) of subsection (a) of this Code
29 section and subsection (c) of this Code section, the board shall prescribe by rule or
30 regulation procedures for approval by the division of any equipment used for remote
31 sensing and standards, requirements, or specifications for such equipment; procedures for
32 authorization by the director and qualifications of persons authorized to perform remote
33 sensing; operating techniques, specifications, procedures, criteria, and requirements for
34 the performance of remote sensing; requirements for record keeping and reporting,
35 including, but not limited to, results of remote sensing and issuance of exemptions; and
36 any fees to be charged for the performance of remote sensing as authorized by subsection
37 (c) of this Code section."

SECTION 6.

Said chapter is further amended by striking subsection (c) of Code Section 12-9-49, relating to application to conduct emission inspections and certificate of authorization, and inserting in its place the following:

"(c) The board shall not in any manner limit the number, location, and types of authorized inspection stations certified to operate in any nonattainment area, county, or any portion of a county or area. In no event shall the board enter into any contract or into a series of contracts the effect of which will be the realization of centralized testing, except for testing authorized by subsection (c) of Code Section 12-9-47."

SECTION 7.

(a) This Act shall become effective on January 1, 2005, except as otherwise provided by subsection (b) of this section.

(b) If an amendment to the Constitution of the State of Georgia authorizing the designation of funds to the department for remote sensing emissions testing and the creation of a nonlapsing motor vehicle emissions fund for support of motor vehicle emissions reduction programs is not ratified at the general election in 2004, this Act shall not become effective and shall be repealed in its entirety on January 1, 2005.

SECTION 8.

All laws and parts of laws in conflict with this Act are repealed.