

ASSEMBLY BILL NO. 231—ASSEMBLYMEN
CARRILLO; AND DALY

FEBRUARY 27, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing automobile emissions.
(BDR 40-836)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to air pollution; requiring that wireless testing devices be used to conduct emissions tests; requiring a station licensed to conduct emissions tests to provide certain information to the owner concerning the safety of his or her motor vehicle; requiring that wireless testing devices used to conduct emissions tests comply with certain standards; providing that emissions tests are required only on motor vehicles built during or after 1996; establishing the maximum number of stations that are licensed to conduct emissions tests in this State; providing an exception to the requirement for emissions testing for certain transfers of used motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission, in cooperation with the Department of Motor Vehicles and any local air pollution control agency, to adopt regulations for the control of emissions from motor vehicles in any county whose population is 100,000 or more (currently Clark and Washoe Counties). If the Commission determines that it is feasible and practicable to carry out a program of inspecting and testing motor vehicles and systems for the control of emissions from motor vehicles, existing law requires the Commission, in cooperation with the Department and any local air pollution control agency, to adopt regulations and transportation controls to carry out such a program in any county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties). Existing law requires such regulations to establish certain requirements concerning emissions testing. (NRS 445B.770)



Section 7 of this bill requires the regulations adopted by the Commission to establish requirements by which the Department shall require all stations that are licensed to conduct emissions tests to use wireless testing devices when conducting emissions tests. **Section 4** of this bill defines "wireless testing device" to mean a device that: (1) connects to the onboard diagnostic equipment of a motor vehicle by use of a wire or by another means; and (2) uploads the information concerning the emissions of the motor vehicle to the Department via the Internet. **Sections 5, 6, 14 and 15** of this bill make conforming changes. **Section 8** of this bill requires the use of wireless testing devices when conducting an emissions test for a heavy-duty motor vehicle. **Section 10** of this bill requires the Department to use wireless testing devices if the Department conducts any emissions tests.

Section 7 requires the regulations adopted by the Commission to establish requirements by which the Department shall require all stations that are licensed to conduct emissions tests to provide certain information to the registered owner concerning the safety of his or her motor vehicle. **Section 7** requires such stations to: (1) obtain the safety information of the motor vehicle by the use of wireless testing devices; and (2) provide the safety information of the motor vehicle at no additional charge to the registered owner. **Section 8** requires such stations to also provide the safety information to the registered owner of a heavy-duty motor vehicle. **Section 10** requires the Department to provide the safety information to the registered owner of the motor vehicle if the Department conducts any emissions tests.

Section 7 requires the regulations adopted by the Commission to establish requirements by which the Department is required to adopt SAE J2534 as the minimum standard with which wireless testing devices must comply. **Section 3** of this bill defines the term "SAE J2534" to mean standard J2534 published by SAE International or a document determined by the Department to be a subsequent version approved by the Department by regulation.

Sections 7 and 8: (1) prohibit the Commission from requiring stations that are licensed to conduct emissions tests to conduct emissions tests on any motor vehicle built before or during 1995; and (2) require stations that are licensed to conduct emissions tests to conduct emissions tests on any motor vehicle built during or after 1996. If the Department conducts any emissions tests, **section 10:** (1) prohibits the Department from conducting emissions tests on any motor vehicle built before or during 1995; and (2) requires the Department to conduct emissions tests on any motor vehicle built during or after 1996. Existing law provides that certain classes of motor vehicles and hybrid vehicles are exempt from the emissions testing requirements. (NRS 445B.825) **Section 13** of this bill exempts motor vehicles built before or during 1995 from the emissions testing requirements.

Existing law requires the Department, in cooperation with the Commission, to adopt regulations concerning: (1) the licensing of a station that conducts emissions tests; and (2) how such a station performs the emissions test. (NRS 445B.785) **Section 9** of this bill requires the Department, in cooperation with the Commission, to adopt regulations which provide that the number of stations operating as of January 1, 2020, in this State is the maximum number of stations that the Department will license in this State. **Section 9** authorizes the Department to license new stations when an existing station ceases to conduct business as a station. **Section 9** further authorizes the Department to increase the maximum number of stations licensed to operate in a county if the total vehicle count in that county increases by more than 10 percent.

Existing law prohibits a used motor vehicle from being registered unless the application for registration is accompanied by evidence of compliance which certifies that the vehicle is equipped with devices for the control of pollution from motor vehicles. (NRS 445B.800) Existing law provides that this prohibition does not apply to the transfer of registration if evidence of compliance was issued within



90 days before the transfer. (NRS 445B.805) **Section 11** of this bill provides that this prohibition does not apply to the transfer of registration from a vehicle dealer or new vehicle dealer to any person who buys or exchanges an interest in a motor vehicle if evidence of compliance was issued within 180 days before the transfer. **Section 12** of this bill makes conforming changes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 445B of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *“New vehicle dealer” has the meaning ascribed to it in NRS 482.078.*

Sec. 3. *“SAE J2534” means the document published by SAE International on October 28, 2015, as “Recommended Practice for Pass-Thru Vehicle Programming” or a document determined by the Department of Motor Vehicles to be a subsequent version which is approved by the Department of Motor Vehicles by regulation.*

Sec. 4. *“Wireless testing device” means a device that:*
1. Connects to the onboard diagnostic equipment of a motor vehicle by use of a wire or by another means; and
2. Uploads the information concerning the emissions of the motor vehicle to the Department of Motor Vehicles via the Internet.

Sec. 5. NRS 445B.700 is hereby amended to read as follows:
445B.700 As used in NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 445B.705 to 445B.7585, inclusive, *and sections 2, 3 and 4 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 445B.759 is hereby amended to read as follows:
445B.759 1. The provisions of NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act* do not apply to:

- (a) Military tactical vehicles; or
- (b) Replica vehicles.

2. As used in this section:

(a) “Military tactical vehicle” means a motor vehicle that is:
(1) Owned or controlled by the United States Department of Defense or by a branch of the Armed Forces of the United States; and

(2) Used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(b) “Replica vehicle” means any passenger car or light-duty motor vehicle which:



(1) Has a body manufactured after 1967 which is made to resemble a vehicle of a model manufactured before 1968;

(2) Has been altered from the original design of the manufacturer or has a body constructed from materials which are not original to the vehicle;

(3) Is maintained solely for occasional transportation, including exhibitions, club activities, parades, tours or other similar uses; and

(4) Is not used for daily transportation.

➤ The term does not include a vehicle which has been restored to its original design by replacing parts.

Sec. 7. NRS 445B.770 is hereby amended to read as follows:

445B.770 1. In any county whose population is 100,000 or more, the Commission shall, in cooperation with the Department of Motor Vehicles and any local air pollution control agency, adopt regulations for the control of emissions from motor vehicles in areas of the county designated by the Commission.

2. In any county whose population is less than 100,000, if the Commission determines that it is feasible and practicable to carry out a program of inspecting and testing motor vehicles and systems for the control of emissions from motor vehicles, and if carrying out the program is deemed necessary to achieve or maintain the prescribed standards for the quality of ambient air in areas of the State designated by the Commission, the Commission shall, in cooperation with the Department of Motor Vehicles and any local air pollution control agency established under NRS 445B.500 which has jurisdiction in a designated area, adopt regulations and transportation controls as may be necessary to carry out the program.

3. The regulations must distinguish between light-duty and heavy-duty motor vehicles and may prescribe:

(a) Appropriate criteria and procedures for the approval, installation and use of devices for the control of emissions from motor vehicles; and

(b) Requirements for the proper maintenance of such devices and motor vehicles.

4. The regulations must establish:

(a) Requirements by which the Department of Motor Vehicles shall license authorized stations to inspect, repair, adjust and install devices for the control of emissions for motor vehicles, including criteria by which any person may become qualified to inspect, repair, adjust and install those devices.

(b) Requirements by which the Department of Motor Vehicles may license an owner or lessee of a fleet of three or more vehicles as a fleet station if the owner or lessee complies with the regulations



1 of the Commission. The fleet station shall only certify vehicles
2 which constitute that fleet.

3 (c) Requirements by which the Department of Motor Vehicles
4 provides for inspections of motor vehicles owned by this State and
5 any of its political subdivisions.

6 *(d) Requirements by which the Department of Motor Vehicles*
7 *shall require all authorized inspection stations, authorized stations*
8 *and fleet stations to use wireless testing devices to inspect and test*
9 *motor vehicles and systems for the control of emissions from*
10 *motor vehicles.*

11 *(e) Requirements by which the Department of Motor Vehicles*
12 *shall require all authorized inspection stations, authorized stations*
13 *and fleet stations to provide information to the registered owner*
14 *concerning the safety of his or her motor vehicle. The authorized*
15 *inspection station, authorized station or fleet station shall:*

16 *(1) Obtain the safety information of the motor vehicle by*
17 *use of the wireless testing devices pursuant to paragraph (d); and*

18 *(2) Provide the safety information of the motor vehicle to*
19 *the registered owner at no additional charge.*

20 *(f) Requirements by which the Department of Motor Vehicles*
21 *shall adopt SAE J2534 as the minimum standard with which*
22 *wireless testing devices are required to comply pursuant to NRS*
23 *445B.700 to 445B.845, inclusive, and sections 2, 3 and 4 of this*
24 *act.*

25 5. The Commission shall consider, before adopting any
26 regulation or establishing any criteria pursuant to paragraph (a) of
27 subsection 3:

28 (a) The availability of devices adaptable to specific makes,
29 models and years of motor vehicles.

30 (b) The effectiveness of those devices for reducing the emission
31 of each type of air pollutant under conditions in this State.

32 (c) The capability of those devices for reducing any particular
33 type or types of pollutants without significantly increasing the
34 emission of any other type or types of pollutant.

35 (d) The capacity of any manufacturer to produce and distribute
36 the particular device in such quantities and at such times as will
37 meet the estimated needs in Nevada.

38 (e) The reasonableness of the retail cost of the device and the
39 cost of its installation and maintenance over the life of the device
40 and the motor vehicle.

41 (f) The ease of determining whether any such installed device is
42 functioning properly.

43 *6. The Commission shall not require pursuant to subsection 1*
44 *or 2 any authorized inspection station, authorized station or fleet*
45 *station to inspect and test motor vehicles and systems for the*



control of emissions from motor vehicles for motor vehicles built before or during 1995. The Commission shall require pursuant to subsection 1 or 2 authorized inspection stations, authorized stations and fleet stations to inspect and test motor vehicles and systems for the control of emissions from motor vehicles for motor vehicles built during or after 1996.

Sec. 8. NRS 445B.780 is hereby amended to read as follows:

445B.780 1. The Commission shall, by regulation, establish a program for the regulation of smoke and other emissions by inspection of heavy-duty motor vehicles that are powered by diesel fuel or motor vehicle fuel.

2. The Commission shall adopt regulations concerning:

(a) The equipment used to measure smoke and other emissions of heavy-duty motor vehicles.

(b) The granting of a waiver if compliance involves repair and equipment costs which exceed the limits established by the Commission. The Commission shall establish the limits in a manner which avoids unnecessary financial hardship to owners of heavy-duty motor vehicles.

3. *The regulations must establish:*

(a) Requirements by which the Department of Motor Vehicles shall require all authorized inspection stations, authorized stations and fleet stations to use wireless testing devices to inspect and test heavy-duty motor vehicles and systems for the control of emissions from heavy-duty motor vehicles; and

(b) Requirements by which the Department of Motor Vehicles shall require all authorized inspection stations, authorized stations and fleet stations to provide information to the registered owner concerning the safety of his or her heavy-duty motor vehicle. The authorized inspection station, authorized station or fleet station shall:

(1) Obtain the safety information of the heavy-duty motor vehicle by use of the wireless testing devices pursuant to paragraph (a); and

(2) Provide the safety information of the heavy-duty motor vehicle to the registered owner at no additional charge.

4. *The Commission shall not require any authorized inspection station, authorized station or fleet station to inspect and test heavy-duty motor vehicles and systems for the control of emissions from heavy-duty motor vehicles for heavy-duty motor vehicles built before or during 1995. The Commission shall require authorized inspection stations, authorized stations and fleet stations to inspect and test heavy-duty motor vehicles and systems for the control of emissions from heavy-duty motor vehicles for heavy-duty motor vehicles built during or after 1996.*



5. As used in this section, "heavy-duty motor vehicle" means a motor vehicle that has a manufacturer's gross vehicle weight rating of 14,001 pounds or more. The term does not include a passenger car.

Sec. 9. NRS 445B.785 is hereby amended to read as follows:
445B.785 1. The Department of Motor Vehicles shall, in cooperation with the Commission, adopt regulations which:

(a) Prescribe requirements for licensing authorized inspection stations, authorized stations and fleet stations. The regulations adopted pursuant to this paragraph must provide that a facility licensed as an authorized inspection station:

(1) Except as otherwise provided in subparagraph (2), may not, unless specifically authorized by the Commission, install, repair, diagnose or adjust any component or system of a motor vehicle that affects exhaust emissions.

(2) May perform the following activities in connection with a motor vehicle:

(I) The changing of oil;

(II) The replacing of an oil filter, air filter, fuel filter, belt or hose; and

(III) The servicing of a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(b) Prescribe the manner in which authorized inspection stations, authorized stations and fleet stations inspect motor vehicles and issue evidence of compliance.

(c) Prescribe the ~~diagnostic equipment~~ *wireless testing devices* necessary to perform the required inspection. The regulations must ensure that:

(1) The equipment complies with any applicable standards of the United States Environmental Protection Agency; and

(2) Use of the equipment is specifically authorized by the Commission.

(d) Provide for any fee, bond or insurance which is necessary to carry out the provisions of NRS 445B.700 to 445B.815, inclusive ~~and~~ *, and sections 2, 3 and 4 of this act.*

(e) Provide for the issuance of a pamphlet for distribution to owners of motor vehicles. The pamphlet must contain information explaining the reasons for and the methods of the inspections.

(f) Except as otherwise provided in this paragraph, provide that the number of authorized inspection stations, authorized stations and fleet stations licensed in this State as of January 1, 2020, is the maximum number of authorized inspection stations, authorized stations and fleet stations, respectively, that the



Department of Motor Vehicles shall license in this State. The Department of Motor Vehicles may:

(1) License a new authorized inspection station, authorized station or fleet station when an authorized inspection station, authorized station or fleet station that is licensed as of January 1, 2020, ceases to conduct business as such a licensed station; and

(2) Increase the maximum number of authorized inspection stations, authorized stations and fleet stations licensed to operate in a county if the Department of Motor Vehicles determines that the total vehicle count in that county has increased by more than 10 percent.

2. The Department of Motor Vehicles shall issue a copy of the regulations to each authorized inspection station, authorized station and fleet station.

Sec. 10. NRS 445B.798 is hereby amended to read as follows:

445B.798 *1. In a county whose population is 100,000 or more, the Department of Motor Vehicles may conduct a test of the emissions from a motor vehicle which is being operated on a highway in that county to determine whether the vehicle complies with the provisions of NRS 445B.700 to 445B.845, inclusive, and sections 2, 3 and 4 of this act and the regulations adopted pursuant thereto.*

2. If the Department of Motor Vehicles conducts a test pursuant to subsection 1, the Department of Motor Vehicles:

(a) Shall use wireless testing devices to inspect and test motor vehicles and systems for the control of emissions from motor vehicles.

(b) Shall provide information to the registered owner concerning the safety of his or her motor vehicle. The Department of Motor Vehicles shall:

(1) Obtain the safety information of the motor vehicle by use of the wireless testing devices pursuant to paragraph (a); and

(2) Provide the safety information of the motor vehicle to the registered owner at no additional charge.

(c) Shall not inspect and test motor vehicles and systems for the control of emissions from motor vehicles for motor vehicles built before or during 1995. The Department of Motor Vehicles shall inspect and test motor vehicles and systems for the control of emissions from motor vehicles for motor vehicles built during or after 1996.

Sec. 11. NRS 445B.805 is hereby amended to read as follows:

445B.805 The provisions of NRS 445B.800 do not apply to:

1. Transfer of registration or ownership between:

(a) Spouses; or



(b) Companies whose principal business is leasing of vehicles, if there is no change in the lessee or operator of the vehicle.

2. Motor vehicles which are subject to prorated registration pursuant to the provisions of NRS 706.801 to 706.861, inclusive, and which are not based in this State.

3. Transfer of registration if evidence of compliance was issued within 90 days before the transfer.

4. *Transfer of registration from a vehicle dealer or new vehicle dealer to any person who buys or exchanges an interest in a motor vehicle if evidence of compliance was issued within 180 days before the transfer.*

5. A consignee who is conducting a consignment auction which meets the requirements set forth in NRS 445B.807 if the consignee:

(a) Informs the buyer, using a form, including, without limitation, an electronic form, if applicable, as approved by the Department of Motor Vehicles, that the consignee is not required to obtain an inspection or testing of the motor vehicle pursuant to the regulations adopted by the Commission under NRS 445B.770 and that any such inspection or testing that is required must be obtained by the buyer before the buyer registers the motor vehicle;

(b) Posts a notice in a conspicuous location at the site of the consignment auction or, if applicable, on the Internet website on which the consignment auction is conducted, and includes a notice in any document published by the consignee that lists the vehicles available for the consignment auction or solicits persons to bid at the consignment auction, stating that the consignee is exempt from any requirement to obtain an inspection or testing of a motor vehicle pursuant to the regulations adopted by the Commission under NRS 445B.770 if the motor vehicle is sold at the consignment auction; and

(c) Makes the vehicle available for inspection before the consignment auction:

(1) In the case of a live auction with an auctioneer verbally calling for and accepting bids, at the location of the consignment auction; or

(2) In the case of an auction that is conducted on an auction website on the Internet by a consignee who is certified pursuant to subsection 2 of NRS 445B.807, at the primary place of business of the consignee conducting the consignment auction.

Sec. 12. NRS 445B.807 is hereby amended to read as follows:

445B.807 1. To qualify as a consignment auction for the purposes of subsection ~~4~~ 5 of NRS 445B.805, an event must be:

(a) A live auction with an auctioneer verbally calling for and accepting bids; or



(b) An auction conducted on an auction website on the Internet by a person who is certified pursuant to subsection 2 and who is:

- (1) A vehicle dealer licensed pursuant to NRS 482.325; or
- (2) A salvage pool licensed pursuant to NRS 487.410.

2. A person may obtain certification for the purposes of paragraph (b) of subsection 1 by:

- (a) Applying to the Department of Motor Vehicles;
- (b) Providing evidence satisfactory to the Department that the person is licensed as a vehicle dealer pursuant to NRS 482.325 or as a salvage pool pursuant to NRS 487.410;

(c) Providing evidence satisfactory to the Department that at least 51 percent of the motor vehicles sold by the person in the calendar year immediately preceding the date of the person's application were sold on behalf of another person and were sold using:

(1) A live auction with an auctioneer verbally calling for and accepting bids; or

(2) An auction conducted on an auction website on the Internet by the person; and

(d) Providing any other information or documentation required by the Department.

3. The Department may adopt any regulations necessary to carry out the provisions of this section, including, without limitation, providing procedures for the application for and the granting of a certification pursuant to this section and providing for the expiration and renewal of the certification.

Sec. 13. NRS 445B.825 is hereby amended to read as follows:
445B.825 1. ~~The~~ *Notwithstanding the provisions of subsection 2, the* Commission may provide for exemption from the provisions of NRS 445B.770 to 445B.815, inclusive, of designated classes of motor vehicles, including, without limitation, classes based upon the year of manufacture of motor vehicles.

2. *Motor vehicles built before or during 1995 are exempt from the provisions of NRS 445B.770 to 445B.815, inclusive.*

3. A hybrid electric vehicle, as defined in 40 C.F.R. § 86.1702-99, is exempt from the provisions of NRS 445B.770 to 445B.815, inclusive, until the model year of the vehicle is 6 years old.

~~3.~~ 4. The Commission shall provide for a waiver from the provisions of NRS 445B.770 to 445B.815, inclusive, if compliance involves repair and equipment costs which exceed the limits established by the Commission. The Commission shall establish the limits in a manner which avoids unnecessary financial hardship to motor vehicle owners.



Sec. 14. NRS 445B.835 is hereby amended to read as follows:
445B.835 1. The Department of Motor Vehicles may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act*, or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Pollution Control Account.

3. In addition to any other remedy provided by NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act*, the Department may compel compliance with any provision of NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act* and any rule, regulation or order adopted or issued pursuant thereto, by injunction or other appropriate remedy and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 15. NRS 445B.845 is hereby amended to read as follows:
445B.845 1. A violation of any provision of NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act* relating to motor vehicles, or any regulation adopted pursuant thereto relating to motor vehicles, is a misdemeanor. The provisions of NRS 445B.700 to 445B.845, inclusive, *and sections 2, 3 and 4 of this act*, or any regulation adopted pursuant thereto, must be enforced by any peace officer.

2. Satisfactory evidence that the motor vehicle or its equipment conforms to those provisions or regulations, when supplied by the owner of the motor vehicle to the Department of Motor Vehicles within 10 days after the issuance of a citation pursuant to subsection 1, may be accepted by the court as a complete or partial mitigation of the offense.

Sec. 16. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

