

Date of Hearing: March 27, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 582 (Cristina Garcia) – As Amended March 22, 2017

SUBJECT: Vehicles: emissions: surveillance

SUMMARY: Requires the California Air Resources Board (ARB) to enhance its emissions surveillance of new motor vehicles to better detect software that may be used to evade the surveillance of emissions. Specifically, **this bill**:

- 1) Requires ARB to enhance its surveillance of emissions from new motor vehicles to detect software that may be used to evade the surveillance of emissions by taking certain actions, including, but not necessarily limited to, the following:
 - a) Partnering with academic institutions and national and private laboratories;
 - b) Increasing utilization of real-world condition emissions testing; and,
 - c) Contracting with experts to develop new surveillance methods and test cycles and performing testing on behalf of ARB.
- 2) Authorizes ARB to, by regulation, impose fees on manufacturers of motor vehicles to recover the costs of conducting the enhanced emissions surveillance activities.

EXISTING LAW:

- 1) Requires ARB to achieve the maximum degree of emission reductions possible from vehicular and other mobile sources in order to achieve attainment of state ambient air quality standards.
- 2) Requires ARB to adopt and implement emission standards for new motor vehicles that are necessary and technologically feasible.
- 3) Prohibits a new motor vehicle or new motor vehicle engine from being certified by ARB, unless the vehicle or engine meets certain emission standards adopted by ARB.
- 4) Prohibits a new motor vehicle from being sold and registered in the state unless the manufacturer allows ARB to conduct surveillance testing on the vehicle.
- 5) Authorizes ARB to impose a fee on manufacturers of new motor vehicles to recover the costs of conducting surveillance of new motor vehicles prior to retail sales and to impose penalties if the fees are not paid.
- 6) Requires ARB to establish criteria for the evaluation of the effectiveness of motor vehicle pollution control devices.
- 7) Prohibits a person from installing, selling, or offering for sale any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution control

device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system.

- 8) Establishes civil penalties for violations of new motor vehicle emission standards or altering or modifying the motor vehicle pollution control device.

FISCAL EFFECT: Unknown

COMMENTS: According to the author, this bill would provide ARB with the tools and resources needed to help stay current on new vehicle technology that could be used to circumvent California's clean air requirements. Specifically, this bill would allow ARB to impose fees on vehicle manufacturers and to use the revenues to enhance their new motor vehicle emission testing program to ensure that manufacturers comply with California's clean air regulations.

Nationally and statewide, the transportation sector is responsible for a major portion of air pollution and emissions. To address this, the United States Environmental Protection Agency (EPA) has established regulations requiring that, prior to introducing a vehicle for sale in the United States, manufacturers must demonstrate that the vehicle meets federal emissions standards. In California, manufacturers must additionally demonstrate compliance with state air quality standards. Manufacturers who fail to comply with both state and federal requirements are subject to civil penalties and other enforcement actions.

In September 2015, EPA issued a notice of violation of the federal Clean Air Act to Volkswagen after it was found that the company had intentionally programmed certain diesel engines in model years 2009 to 2015 to activate emissions controls only during laboratory emissions testing. The software (also called defeat device) caused the vehicles' nitrous oxide (NOx) output to meet EPA standards during regulatory testing but to emit up to 40 times more NOx in real-world driving conditions. Volkswagen deployed this defeat device in about eleven million cars worldwide. Five hundred thousand of these vehicles were deployed in the United States and 79,400 of these were sold in California.

The federal Clean Air Act defines a defeat device as an auxiliary emission control device (AECD) that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use. A manufacturer may equip a vehicle with a defeat device if it can justify the need for it in terms of preventing damage, provided the AECD does not go beyond the requirements of engine starting and the manufacturer discloses this information in its application to EPA for its certificate of conformity. Volkswagen failed to disclose the defeat device in any of its applications.

California has made great strides in cleaning up the air, but despite these efforts, many regions in the state continue to experience poor air quality. For example, 23 million Californians live in the nation's most severe non-attainment areas for ozone pollution, and 12 million Californians live in areas with extremely high levels of fine particle pollution. These pollutants cause lung disease, heart disease, and premature death, especially among the most vulnerable populations.

While ARB was instrumental in discovering that one vehicle manufacturer was cheating the system, many years went by before the issue was discovered. It is hoped that the billions of dollars in air quality mitigation, investments, and penalties that have been

imposed on Volkswagen will serve as a deterrent to other vehicle manufactures, this situation demonstrates that California cannot assume that automakers will willingly comply with California's clean air requirements. As a result, ARB must take additional action, as required in this bill, to ensure that automakers are complying with existing laws and regulations. This bill provides the necessary framework and funding to help ARB ensure that in the future automakers comply with existing laws and regulations as they relate to vehicle emissions.

Writing in support, the American Lung Association in California notes that this bill would give ARB the ability to secure needed funding, if necessary, to perform additional independent testing and to partner with experts to develop the best possible methodologies to determine if defeat devices are being used. They note that these added resources will help keep California at the forefront of protecting Californians by ensuring that our clean air standards are producing the intended health benefits.

Double Referral: This bill passed out of the Assembly Natural Resources Committee on March 20, 2017, with an 8-1 vote.

Previous legislation: AB 1685 (Gomez), Chapter 604, Statutes of 2016, updated civil penalties for violations of ARB regulations, orders, or rules, to bring penalty assessments into alignment with those of the EPA.

ACR 112 (Hadley), Chapter 117, Statutes of 2016, thanked ARB for its exemplary work and tenacity in uncovering the emissions control defeat devices on certain diesel-fueled Volkswagen motor vehicles and expressed the Legislature's support for specified future emissions test-related actions by ARB.

SB 1402 (Dutton), Chapter 413, Statutes of 2010, required ARB to provide a specified written explanation prior to imposing an administrative or civil penalty for a violation of air pollution law, make these explanations available to the public, annually report specified administrative penalties imposed, and publish a penalty policy pertaining to vehicular air pollution control.

REGISTERED SUPPORT / OPPOSITION:

Support

American Lung Association in California
California League of Conservation Voters
Coalition for Clean Air
Sierra Club California
Valley Clean Air Now

Opposition

None on file

Analysis Prepared by: Victoria Alvarez / TRANS. /