

Date of Hearing: July 1, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION  
Jim Frazier, Chair  
SB 210 (Leyva) – As Amended June 24, 2019

**SENATE VOTE:** 27-10

**SUBJECT:** Heavy-Duty Vehicle Inspection and Maintenance Program

**SUMMARY:** Requires the California Air Resources Board (ARB) to adopt and implement regulations for a Heavy-Duty Vehicle Inspection and Maintenance Program for nongasoline, heavy-duty, on-road vehicles. Specifically, **this bill:**

- 1) Requires ARB to implement, by an unspecified date, a pilot program that develops and demonstrates the technologies necessary to implement a Heavy-Duty Vehicle Inspection and Maintenance Program for nongasoline, heavy-duty, on-road vehicles with a gross vehicle weight rating of more than 14,000 pounds, and report to the Legislature within two years of completion of the pilot program.
- 2) Directs ARB, no later than two years following the completion of the pilot program, to adopt and implement regulations for a Heavy-Duty Vehicle Inspection and Maintenance Program for nongasoline, heavy-duty, on-road vehicles with a gross vehicle weight rating of more than 14,000 pounds. In adopting the regulation, ARB must:
  - a) Establish test procedures for different model years and technologies that measure the effectiveness of emission controls, such as utilizing onboard diagnostics systems;
  - b) Require a motor vehicle to pass the tests in order to register or operate in the state;
  - c) Establish program validation methods for evaluating program effectiveness;
  - d) Develop and implement enforcement methods to ensure continuing compliance;
  - e) Develop, in coordination with the California Department of Motor Vehicles (DMV), a database to collect and track vehicle test data, assess the data to determine compliance, and regularly generate lists of compliant vehicles in order for DMV to issue annual vehicle registration notices; and
  - f) Exempt from the regulation zero-emission vehicles, tactical military vehicles, certain specified emergency vehicles, and new vehicles certified to meet the most stringent optional reduced emissions of oxides of nitrogen standard for four years from the time inspections begin under the program.
- 3) Requires ARB to assess a fee to fund the reasonable costs of implementing the Heavy-Duty Vehicle Inspection and Maintenance Program, limited exclusively to the costs of implementation, and only upon approval of the Legislature through the enactment of a statute establishing the fee schedule.

- 4) Authorizes ARB to inspect vehicles in conjunction with the safety and weight enforcement activities of the California Highway Patrol (CHP), cooperatively with CHP or independently, or contract for assistance in conducting inspections.
- 5) Authorizes ARB to issue citations to the owner of non-compliant vehicles, and may require the owner to correct every deficiency specified in the citation within 45 days, unless the vehicle is used exclusively in the conduct of agricultural purposes, in which case the owner may have 75 days to correct the deficiency.
- 6) Requires ARB, upon implementation of the Heavy-Duty Vehicle Inspection and Maintenance Program, to do the following:
  - a) Provide mechanisms for out-of-state owners of heavy-duty vehicles to comply with the program before entering the state;
  - b) Sunset the requirements of the Periodic Smoke Inspection Program (PSIP); and
  - c) Post on its website two biennial reports including discussions on enforcement, operational downtime, and an estimate of emissions reduced and cost-effectiveness.
- 7) Requires DMV to confirm compliance with the Heavy-Duty Vehicle Inspection and Maintenance Program prior to the initial registration, transfer of ownership, or registration renewal of any heavy-duty vehicle, as defined.
- 8) Prohibits a nongasoline, heavy-duty, on-road motor vehicle with a gross vehicle weight rating of more than 14,000 pounds from being operated on a public road if that vehicle has an illuminated malfunction indicator light, or “check engine light.”

**EXISTING LAW:**

- 1) Establishes ARB as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources.
- 2) Establishes the Motor Vehicle Inspection Program for vehicles under 14,000 pounds, commonly known as the Smog Check Program, to help the state meet federal air quality standards, and requires owners to have their vehicles tested upon initial registration, transfer of ownership and biennially, with some exceptions.
- 3) Pursuant to ARB regulations, requires owners or operators of heavy-duty diesel-powered vehicles to perform regular self-inspections (smoke opacity tests) of their vehicles to control excessive smoke emissions from and tampering with heavy-duty diesel trucks and buses, known as the PSIP.
- 4) Authorizes ARB to audit the inspection records of all heavy-duty diesel-powered vehicles at the owner/operator designated fleet location and to test vehicles for compliance with the PSIP.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, the fiscal impacts, and the timing of costs, are subject to a high degree of uncertainty since the pilot program and regulatory process will inform the parameters of the full Program.

**COMMENTS:** Roughly 40% of California's GHG emissions are generated by the transportation sector, which includes both the light-duty (passenger cars) and medium- and heavy-duty fleets (such as, trucks, buses, off-road equipment). While cleaning up the entire transportation sector is important, an effort to improve the heavy-duty vehicle fleet is a high priority because this sector contributes greatly to GHG emissions as well as produces a variety of smog-forming pollutants such as oxides of nitrogen (NO<sub>x</sub>), particulate matter, reactive organic gasses, and other toxic air contaminants that contribute to poor air quality and associated health impacts.

To help address the impacts of the heavy-duty vehicle sector, ARB administers the PSIP, which requires diesel and bus fleet owners to conduct annual smoke opacity self-inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. ARB randomly audits fleets, maintenance and inspection records, and tests a representative sample of vehicles. All vehicles that do not pass the test must be repaired and retested. The PSIP requires testing for about 400,000 vehicles per year representing about 14,000 California fleets. A fleet owner that neglects to perform the annual smoke opacity inspection on applicable vehicles is subject to a penalty of \$500 per vehicle, per year.

Separately, ARB adopted the Truck and Bus Rule in 2009, which aims to reduce air toxics and other criteria pollutants by ensuring that nearly every heavy-duty vehicle operated in California meets 2010 heavy-duty engine emission standards by 2023. Older engines must be retired or sold out of state unless they are operating under a low-use provision or only in select rural areas designated through the state. SB 1 (Beall), Chapter 5, Statutes of 2017, tied compliance with the Truck and Bus Rule to an owner's ability to register a heavy-duty vehicle with DMV. While ARB estimates that the Truck and Bus Rule currently has about a 70 percent compliance rate, it expects the compliance rate to dramatically improve with the changes enacted through SB 1.

For light-duty passenger vehicles, the state administers the Smog Check Program. With some exceptions, gasoline- and diesel-powered vehicles, hybrid vehicles, and alternative-fuel vehicles that are model year 1976 and newer require a smog check. A smog inspection consists of a tailpipe emission test and an inspection of a vehicle's on-board diagnostic II (OBD II). The tailpipe emission test is a visual inspection in which the technician checks for blue or black smoke emitting from the tailpipe. As long as there is no blue or black exhaust, the vehicle passes this part of the smog inspection. The OBD II test requires the inspector to attach vehicle components to a smog check machine and run the test for certain codes. An OBD II system independently monitors the performance of a vehicle's emission control system and relays that information to the smog check machine. If the vehicle components pass each code, then the vehicle passes this part of the smog inspection. California's existing Smog Check Program does not apply to heavy-duty vehicles over 14,000 pounds.

This bill proposes to replace the PSIP with a smog check program for heavy-duty vehicles called the Heavy-Duty Vehicle Inspection and Maintenance Program. As the existing Smog Check Program has led to significant improvements in emissions from the passenger vehicle sector, this new program is expected to likewise reduce heavy-duty vehicle emissions. The author states that, according to ARB estimates, between the years 2023 and 2031, this new program will remove 93,000 tons of NO<sub>x</sub> and 1,600 tons of PM 2.5, equivalent to taking 145,000 and 375,000 trucks off the roads in California respectively.

According to the author, “SB 210 is a critical next step to reduce pollution from the many big diesel trucks that travel on the roads and highways across California. Applying similar responsibilities to truck operators to maintain the emission controls throughout the life of their vehicles, just like we already require for everyone else, is common sense. As new trucks with modern technology hit the roads, we have a unique opportunity to ensure long lasting air quality improvements and improve the competitiveness of the California trucking industry. SB 210 can be a real win-win for California residents and the air we breathe. The Los Angeles/Inland Empire, San Diego/Border, Bay Area and Central Valley trade corridors are vital transportation links to the rest of the nation and are impacted daily by truck congestion and rail traffic. SB 210 acknowledges the investments made by the California trucking industry to upgrade truck fleets and leverages this investment to create improved time and cost efficient compliance measures.”

Many environmental, public health, and air quality groups writing in support of this bill state, “SB 210 is a very important measure that is good for our air, climate and health and levels the playing field for owners and operators who take the time and spend the money to keep their trucks in compliance with state emission regulations. We believe this system would allow the vast majority of truckers to pass without difficulty, while it would require improvements from the small fraction of vehicles that generate most of the pollution. Adoption of comprehensive heavy-duty vehicle inspection and maintenance program is a proposed action of both the multi-agency California Sustainable Freight Action Plan of 2016 and ARB’s State Implementation Plan of 2017, the state’s strategy to attain health-based federal air quality standards. SB 210 would make this proposal a reality and allow Californians to breathe easier.”

*Concerns.* Many organizations in opposition to this bill have raised multiple concerns. The author has taken a number of amendments to address these concerns, but at the time of this analysis the organizations listed below have not removed their opposition.

Industry had raised concerns that this bill authorized ARB to assess a fee prior to the Legislature’s review of the proposal and that they would prefer for the fee or schedule of fees to be adopted in statute. Those concerns have largely been addressed with the most recent set of amendments which do precisely what opponents have requested.

In addition, agricultural interests have raised concerns related to the 45-day fix it ticket window and how that is not long enough to accommodate their vehicles during their harvest runs. The author has amended the bill to grant vehicles used exclusively for agricultural purposes an extended window of 75 days. The details of how this might work are still being negotiated.

The California Municipal Utilities Association has raised implementation concerns with the new program. Specifically, they argue that the new program should be aligned with existing programs, such as the CHP Biennial Inspection of Terminals or BIT Program, to create efficiencies and reduce down time. Alternatively, they would rather see the program permit public agencies to perform the testing in-house to save time – and emissions – driving to and from smog testing centers. Finally, they want to be sure the program requires out-of-state vehicles to certify compliance and pay the requisite fees. The author argues that all of these issues can be addressed through the rulemaking process and are not necessary to be included in this bill.

*Committee comments.* In order to realize further reductions in GHG emissions and air quality improvements from the transportation sector, the state is going to have to thoughtfully encourage trucks and other heavy-duty equipment to get cleaner. It seems reasonable, with the

advancements of testing technologies and the clear success of the passenger vehicle Smog Check Program, to expand the state's efforts to include heavy-duty vehicles in the smog check paradigm. The devil, as they say, is in the details of how ARB decides to implement the new program. Some are concerned, ultimately, that ARB will ignore input from affected industries and implement an overly-ambitious, robust, "gold-plated" program and pass the high costs of such an expensive program on to the entities most impacted by this new effort. The author of this bill has worked to allay much of those concerns by requiring ARB to present its proposed fee schedule to the Legislature and for those fees to affirmatively be approved through enactment of statute. With this amendment, the responsibility to safeguard impacted industries will now fall on the Legislature to adequately vet the fee proposal and hold ARB accountable. For example, with this new program replacing the existing PSIP program, ARB should consider the savings from the elimination of the one when calculating the cost of the other.

*Double referral.* This bill will be referred to the Assembly Natural Resources Committee should it pass out of this committee.

*Related legislation.* SB 44 (Skinner) requires ARB to update its 2016 mobile source strategy to include a comprehensive strategy for the deployment of medium duty and heavy-duty vehicles in the state. This bill is set to be heard in this committee on July 1, 2019.

*Previous legislation.* SB 210 (Leyva, 2017) was nearly identical to this bill, requiring ARB to adopt and implement regulations for a Heavy-Duty Vehicle Inspection and Maintenance Program for nongasoline, heavy-duty, on-road vehicles. SB 210 was referred to and not heard in this committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Bay Area Action  
350 Riverside  
Advanced Engine Systems Institute  
Alliance of Nurses for Healthy Environments  
American Cancer Society Cancer Action Network Inc.  
American Heart Association  
American Lung Association in California  
Bay Area Air Quality Management District  
Breast Cancer Prevention Partners  
Breathe California Sacramento Region  
California Bicycle Coalition  
California Conference of Directors of Environmental Health  
California Environmental Justice Alliance  
California Health Care Climate Alliance  
California League of Conservation Voters  
California Public Health Association - North  
CALSTART  
Center for Climate Change & Health  
Ceres, Inc.  
City of West Hollywood  
Coalition for Clean Air

Community Action to Fight Asthma  
Dignity Health  
Environment California  
Environmental Defense Fund  
Environmental Working Group  
Family Allergy Asthma Clinic (Fresno)  
Fossil Free California  
Friends Committee on Legislation of California  
Long Beach Alliance for Children with Asthma  
Maternal and Child Health Access  
Motiv Power Systems  
National Parks Conservation Association  
Nextgen California  
Natural Resources Defense Council  
Physicians for Social Responsibility - Sacramento Chapter  
Physicians for Social Responsibility - San Francisco Bay Area Chapter  
Prevention Institute  
Public Health Institute  
Regional Asthma Management & Prevention  
San Francisco Asthma Task Force  
Sierra Club California  
South Coast Air Quality Management District  
St. John's Well Child & Family Center  
Union of Concerned Scientists  
Valley CAN (Clean Air Now)  
Voices for Progress

**Opposition**

Associated General Contractors of California  
California Building Industry Association  
California Cattlemen's Association  
California Chamber of Commerce  
California Construction and Industrial Materials Association  
California Farm Bureau Federation  
California Municipal Utilities Association  
California Trucking Association  
Sacramento Regional Builders Exchange  
Western States Trucking Association

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