

No. 1994-95

## AN ACT

HB 1514

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the suspension of operating privileges for failure to respond to a citation and for the enhanced vehicle emission inspection program.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1533 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1533. Suspension of operating privilege for failure to respond to citation.

(a) *Violations within Commonwealth.*—The department shall suspend the operating privilege of any person who has failed to respond to a citation *or summons* to appear before *an issuing authority or* a court of competent jurisdiction of this Commonwealth [or of any state] for *any* violation of this title, other than parking, *or who has failed to pay any fine or costs imposed by an issuing authority or such courts for any violation of this title, other than parking*, upon being duly notified [in accordance with general rules] *by an issuing authority or a court of this Commonwealth.* [There shall be 15 days to respond to such notification before suspension is imposed. The suspension shall be for an indefinite period until such person shall respond and pay any fines and penalties imposed. Such suspension shall be in addition to the requirement of withholding renewal or reinstatement of a violator's driver's license as prescribed in section 1503(c) (relating to persons ineligible for licensing).]

(b) *Violations outside Commonwealth.*—*The department shall suspend the operating privilege of any person who has failed to respond to a citation, summons or similar writ to appear before a court of competent jurisdiction of the United States or any state which has entered into an enforcement agreement with the department, as authorized by section 6146 (relating to enforcement agreements), for any violation of the motor vehicle laws of such state, other than parking, or who has failed to pay any fine or costs imposed by such court upon being duly notified in accordance with the laws of such jurisdiction in which the violation occurred. A person who provides proof, satisfactory to the department, that the full amount of the fine and costs has been forwarded to the court shall not be regarded as having failed to respond for the purposes of this subsection.*

(c) *Time for responding to notice.*—*At least 15 days before an issuing authority or court notifies the department to impose a suspension pursuant to subsection (a), the issuing authority or court shall notify the person in*

*writing of the requirement to respond to the citation and pay all fines and penalties imposed by the issuing authority or court.*

*(d) Period of suspension.—The suspension shall continue until such person shall respond to the citation, summons or writ, as the case may be, and pay all fines and penalties imposed or enter into an agreement to make installment payments for the fines and penalties imposed provided that the suspension may be reimposed by the department if the defendant fails to make regular installment payments.*

*(e) Remedy cumulative.—A suspension under this section shall be in addition to the requirement of withholding renewal or reinstatement of a violator's driver's license as prescribed in section 1503(a) (relating to persons ineligible for licensing).*

*(f) Admissibility of documents.—A copy of a document issued by a court or issuing authority of this Commonwealth or by an official of another state shall be admissible for the purpose of proving a violation of this section.*

Section 2. Section 4706 of Title 75 is amended to read:

§ 4706. Prohibition on expenditures for emission inspection program.

(a) General rule.—Except as provided in subsection (b), neither the department nor any other department or agency of the executive branch of State government shall expend any public funds for the establishment and administration of any system for the periodic inspection of emissions or emission systems of motor vehicles.

(b) Exception.—The provisions of subsection (a) shall not apply when the secretary shall certify that a system is required to comply with Federal law and is necessary for the Commonwealth to receive or avoid the loss of Federal funds in which case the department may establish and administer such a system for motor vehicles registered in areas where periodic inspection of emissions or emission systems of motor vehicles is required by the Environmental Protection Agency of the United States or decrees of the courts of the United States.

(b.1) Further exception.—

(1) The provisions of subsection (a) shall not apply if the secretary shall certify that a system is required to comply with the Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.) and subsequent amendments or a final decree of a Federal court and is necessary for the Commonwealth to receive or avoid the loss of Federal funds, in which case the department shall establish and administer an enhanced emission inspection program. This program shall be established in all areas of this Commonwealth where the secretary certifies by publication in the Pennsylvania Bulletin that a system is required in order to comply with Federal law. Any area, counties, county or portion thereof certified to be in the program by the secretary must be mandated to be in the program by Federal law. If a petition is required to be sent to the Federal Government in order for any counties, county or portions of any county to be exempted

from the emission inspection program, the secretary shall petition the Federal Government on behalf of any counties, county or portion of any county that may qualify for an exemption. In cases where more than one county within a metropolitan statistical area may be exempted from the emissions inspection program, the county with the lowest population per square mile shall be exempted first. In cases where only portions of one county may be exempted from the emissions inspection program, the areas with the lowest population per area of postal zip code coverage region shall be exempted first. If the secretary establishes a centralized inspection program, the following limitations shall be applicable:

(i) Vehicle emission inspection shall be on a biennial basis.

(ii) No vehicle repairs or vehicle safety inspections shall be performed at any centralized emission inspection facility.

(iii) No contractor providing centralized inspection shall own or have any business interest in any vehicle repair facility in this Commonwealth.

(iv) For the purposes of this chapter, the department may issue a contract for a period of seven years or more to the successful bidder for the establishment and operation of a centralized program for emissions testing.

(v) The department shall promulgate regulations for the conduct, supervision and qualification of a contractor, its principals, employees or agents providing centralized emission testing which shall include a schedule of offenses punishable by fine of up to \$20,000 and shall make provision for the discipline, termination, suspension and/or debarment of a contractor, its principals, employees or agents for the violation of a regulation pertaining to the emission testing program.

(2) At least 60 days prior to the implementation of any enhanced emission inspection program developed under this subsection, the Secretary of Transportation shall certify by notice in the Pennsylvania Bulletin that an enhanced emission inspection program will commence.

(b.2) **Restrictions on exceptions.**—Notwithstanding any other provision or requirement contained in this title, no provision or requirement of this section shall be more stringent or restrictive than those required by the Clean Air Act. No allowable vehicle emission standard shall be more restrictive than that originally certified for the subject vehicle at the time of manufacture.

(b.3) **Fees.**—*The test fee shall not exceed \$22 every two years.*

(b.4) **Audits.**—*The department shall perform covert audits of all licensed facilities on a monthly basis. The penalties for violations shall be the same as found in subsection (b.1)(1)(v) and shall apply to both centralized and test and repair inspection stations.*

(b.5) **Repairs covered by warranty.**—*The inspection shall be performed so that when vehicles tested under warranty are repaired, such repairs must be covered by the vehicle manufacturer's warranty provisions.*

**(b.6) Retests.**—*The first retest performed for a vehicle that has failed will be free.*

**(b.7) Waiver.**—*The waiver shall be based upon each biennial inspection regardless if the vehicle was inspected at a centralized emission inspection facility or at an enhanced or basic decentralized vehicle emission inspection and maintenance facility.*

**(b.8) Computer costs.**—*The cost of connect into the department's computer to facilitate registration, renewal and denial will be borne by both the centralized and the enhanced or basic decentralized emission facilities.*

**(c) Evidence of emission inspection.**—

(1) The department shall issue evidence of emission inspection through an official emission inspection station or an authorized agent of the department, valid until the next scheduled emission inspection, for a subject motor vehicle which meets the following criteria:

(i) The subject vehicle has passed an inspection or a reinspection performed by the emission inspection station and all required emission control devices are installed.

(ii) The subject vehicle is exempt pursuant to the provisions of section 4702(g) (relating to requirement for periodic inspection of vehicles).

(2) When a subject vehicle has failed the emission inspection test and continues to fail after the owner has expended an amount at least equal to the total cost limitation as provided in paragraph (3), the owner may apply for a waiver. For the purpose of determining qualification for a waiver, the cost of necessary repairs shall not include the costs covered by any warranty, insurance policy or prepaid maintenance agreement or the costs as referred to in paragraph (4).

(3) The waiver limit shall be the minimum required by Federal law. The costs mandated by this subsection do not include any costs recoverable under warranty, insurance policy or prepaid maintenance agreement.

(4) Any expenses incurred in the repair of emission control devices found to be tampered with or rendered inoperative or which are not installed shall not be included in the total cost limitation of paragraph (3).

(5) It is unlawful to operate a subject vehicle without evidence of emission inspection or certification by an authorized agent, provided that it shall be lawful for a motor vehicle to be operated by the vehicle owner while en route to an emissions inspection station or to a vehicle repair facility where an appointment for emissions-related repairs has been scheduled and, provided further, that such operation occurs no later than ten days after the expiration of valid evidence of emission inspection issued under this title.

(6) Subject vehicles presented for emission inspection after the assigned emission inspection deadline shall be charged \$10 for each month

or portion thereof past the due date in addition to the emission inspection fee, except as provided in regulations promulgated by the department.

(d) Coordination with vehicle registration.—Whenever a system for the periodic inspection of emissions or emission systems is established as authorized in subsections (b) and (b.1), such inspection of emissions or emission systems shall be coordinated with the vehicle registration period.

(e) Regulations.—Upon certification by the secretary of the need to comply with Federal law, the department shall promulgate such regulations as may be necessary to implement the emission inspection program but it shall not promulgate a regulation that would require safety inspection stations to also perform emission control inspections. Regulations promulgated by the department relating to the enhanced emission inspection program shall not be subject to the proposed rulemaking provisions of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(f) Scope.—The vehicle emission inspection and maintenance program provided for in this section shall be a centralized test-only enhanced emission inspection program as provided for in the Clean Air Act and regulations promulgated by the Environmental Protection Agency. However, if the performance standard requirements under section 183(c) of the Clean Air Act (42 U.S.C. § 7511b(c)) and regulations promulgated by the Environmental Protection Agency are changed to permit the consideration and approval of either an enhanced or a basic decentralized emission inspection program for the Commonwealth, the department shall petition the Environmental Protection Agency for allowance to revise its submission under the Clean Air Act, so as to study and pursue the implementation of either an enhanced or basic decentralized vehicle emission inspection and maintenance program which meets revised minimum Federal requirements established by a Federal statute, an order of a Federal or State court of competent jurisdiction or an administrative action by the Environmental Protection Agency not exceeding the mandates of the act of November 15, 1990 (Public Law 101-549, 104 Stat. 2399). **[Any modification of the performance standard requirements, either by Congress or the Environmental Protection Agency, or the modification of any submission by the department under section 110 of the Clean Air Act (42 U.S.C. § 7410) shall not affect any pending or existing request for proposals, bids for contracts, negotiations, awards for contracts, contracts or programs for enhanced vehicle emission inspection in designated areas of this Commonwealth.]**

***(g) Alternative enhanced emission inspection program.—Notwithstanding the provisions of subsection (f), the department shall comply with all of the following requirements:***

***(1) The department shall immediately suspend the development and implementation of a centralized, test-only vehicle emission inspection program until March 31, 1995.***

(2) *The department shall immediately notify the Environmental Protection Agency that the Commonwealth is developing an alternative vehicle emission program and intends to seek its approval of the plan in accordance with the requirements of the Federal law.*

(3) *No later than March 1, 1995, the department shall develop and submit to the Environmental Protection Agency an alternative-enhanced vehicle emission inspection program for approval which meets the requirements of Federal law and consists of a decentralized test and repair program or a hybrid program which combines both decentralized test and repair and test-only components. The decentralized test program may contain an additional component which will test and repair only those components necessary to achieve compliance with Federal clean air standards. As part of this decentralized test program, the department shall utilize the newest and most efficient technologies, including, but not limited to, remote roadside testing, identification and targeting of gross polluting vehicles and alternative equipment to existing inspection technology. The department may incorporate pilot programs and demonstration projects which achieve and enhance vehicle emissions reductions.*

(4) *On the effective date of this subsection, the department shall be immediately prohibited from expending any funds or allowing any other action in furtherance of the development and implementation of a centralized, test-only vehicle emission inspection program until the Environmental Protection Agency approves the decentralized or hybrid system proposed under paragraph (3). Any funds expended by the department after the approval of the program by the Environmental Protection Agency shall be limited to the implementation of the revised vehicle inspection program.*

(h) *Removal from Ozone Transport Commission.—The Governor shall take the steps necessary to obtain Environmental Protection Agency approval to remove all areas of the Commonwealth from the Northeast Ozone Transport Commission region that are now classified or in the future will be classified as in attainment of the Federal ozone pollution standard or which are unclassified for the purpose of imposing an enhanced vehicle emission system inspection program and other air pollution control measures. The Governor shall initiate the actions necessary under this section no later than 60 days after the effective date of this section.*

(i) *Suspension of program.—The Governor shall immediately suspend the implementation and enforcement of the Employer Trip Reduction Program until March 31, 1995, or until an alternative program is developed that will achieve the same emission reductions. The Employer Trip Reduction Program or an alternative program shall not be required if the area classified as severe ozone nonattainment is reclassified as a serious ozone nonattainment area by the Environmental Protection Agency.*

Section 3. This act shall take effect as follows:

- (1) The amendment of 75 Pa.C.S. § 4706 and this section shall take effect immediately.
- (2) The remainder of this act shall take effect in 60 days.

We certify that this bill, House Bill No. 1514, Printer's No. 4179, having passed both Houses, vetoed by the Governor, official notification of which was returned to the House of Representatives where the House reconsidered and passed the bill by a two-thirds majority of members elected to the House on Monday November 14, 1994, the objections of the Governor to the contrary notwithstanding. Upon notification by the House as to their action, the Senate of Pennsylvania reconsidered and passed the bill on Tuesday, November 15, 1994, by a two-thirds majority of the members elected to the Senate of Pennsylvania, the objections of the Governor to the contrary notwithstanding.

Given under our hand and seal this sixteenth day of November, one thousand nine hundred and ninety-four.

H. WILLIAM DeWEESE  
Speaker, House of Representatives

MARK S. SINGEL  
President, Senate

JOHN J. ZUBECK  
Chief Clerk, House of Representatives

MARK R. CORRIGAN  
Secretary, Senate

*Note:* The date of final enactment of Act No. 1994-95 is November 15, 1994.