

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

# HOUSE BILL 2419

AN ACT

AMENDING SECTION 49-542, ARIZONA REVISED STATUTES; RELATING TO ANNUAL EMISSIONS INSPECTION OF MOTOR VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-542, Arizona Revised Statutes, is amended to  
3 read:

4 49-542. Emissions inspection program; powers and duties of  
5 director; administration; periodic inspection;  
6 minimum standards and rules; exception

7 A. The director shall administer a comprehensive annual or biennial  
8 emissions inspection program which shall require the inspection of vehicles  
9 in this state pursuant to this article and applicable administrative rules.  
10 Such inspection is required in area A and area B, for those vehicles owned by  
11 a person who is subject to section 15-1444 or 15-1627 and for those vehicles  
12 registered outside of area A or area B but used to commute to the driver's  
13 principal place of employment located within area A or area B. Inspection in  
14 other counties of the state shall commence upon application by a county board  
15 of supervisors for participation in such inspection program, subject to  
16 approval by the director. In all counties with a population of three hundred  
17 fifty thousand or fewer persons according to the most recent United States  
18 decennial census, except for the portion of counties that contain any portion  
19 of area A, the director shall as conditions dictate provide for testing to  
20 determine the effect of vehicle related pollution on ambient air quality in  
21 all communities with a metropolitan area population of twenty thousand  
22 persons or more according to the most recent United States decennial census.

23 If such testing detects the violation of state ambient air quality standards  
24 by vehicle related pollution, the director shall forward a full report of  
25 such violation to the president of the senate, the speaker of the house of  
26 representatives and the governor.

27 B. The state's annual or biennial emissions inspection program shall  
28 provide for vehicle inspections at official emissions inspection stations or  
29 at fleet emissions inspection stations. Each inspection station in area A  
30 shall employ at least one mechanic who is available during the station's  
31 hours of operation to provide technical advice and assistance for persons who  
32 fail the emissions test. The director may enter into agreements with the  
33 department of transportation or with county assessors for the use of official  
34 emissions inspection stations for the purpose of conducting vehicle  
35 registrations. An official or fleet emissions inspection station permit  
36 shall not be sold, assigned, transferred, conveyed or removed to another  
37 location except on such terms and conditions as the director may prescribe.

38 C. Vehicles required to be inspected and registered in this state,  
39 except those provided for in section 49-546, shall be inspected, for the  
40 purpose of complying with the registration or reregistration requirement  
41 pursuant to subsection D of this section, in accordance with the provisions  
42 of this article no more than ninety days prior to each reregistration  
43 expiration date. A vehicle may be submitted voluntarily for inspection more  
44 than ninety days before the reregistration expiration date on payment of the  
45 prescribed inspection fee. Such voluntary inspection shall not be considered

1 as compliance with the registration or reregistration requirement pursuant to  
2 subsection D of this section.

3 D. A vehicle shall not be registered or reregistered until such  
4 vehicle has passed the emissions inspection and the tampering inspection  
5 prescribed in subsection G of this section or has been issued a certificate  
6 of waiver. A certificate of waiver shall only be issued one time to a  
7 vehicle after January 1, 1997. If any vehicle to be registered or  
8 reregistered is being sold by a dealer licensed to sell motor vehicles  
9 pursuant to title 28, the cost of any inspection and any repairs necessary to  
10 pass the inspection shall be borne by the dealer. A dealer who is licensed  
11 to sell motor vehicles pursuant to title 28 and whose place of business is  
12 located in area A or area B shall not deliver any vehicle to the retail  
13 purchaser until the vehicle passes any inspection required by this article or  
14 the vehicle is exempt under subsection J of this section.

15 E. On the registration or reregistration of a vehicle which has  
16 complied with the minimum emissions standards pursuant to this section or is  
17 otherwise exempt under this section, the registering officer shall issue an  
18 air quality compliance sticker to the registered owner which shall be placed  
19 on the vehicle as prescribed by rule adopted by the department of  
20 transportation or issue a modified year validating tab as prescribed by rule  
21 adopted by the department of transportation. Those persons who reside  
22 outside of area A or area B but who elect to test their vehicle or are  
23 required to test their vehicle pursuant to this section and who comply with  
24 the minimum emissions standards pursuant to this section or are otherwise  
25 exempt under this section shall remit a compliance form, as prescribed by the  
26 department of transportation, and proof of compliance issued at an official  
27 emissions inspection station to the department of transportation along with  
28 the appropriate fees. The department of transportation shall then issue the  
29 person an air quality compliance sticker which shall be placed on the vehicle  
30 as prescribed by rule adopted by the department of transportation. The  
31 registering officer or the department of transportation shall collect an air  
32 quality compliance fee of twenty-five cents. The registering officer or the  
33 department of transportation shall deposit, pursuant to sections 35-146 and  
34 35-147, the air quality compliance fee in the state highway fund established  
35 by section 28-6991. The department of transportation shall deposit, pursuant  
36 to sections 35-146 and 35-147, any emissions inspection fee in the emissions  
37 inspection fund. The provisions of this subsection do not apply to those  
38 vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale  
39 of vehicles between motor vehicle dealers or vehicles leased to a person  
40 residing outside of area A or area B by a leasing company whose place of  
41 business is in area A or area B.

42 F. The director shall adopt minimum emissions standards pursuant to  
43 section 49-447 with which the various classes of vehicles shall be required  
44 to comply as follows:

1           1. For the purpose of determining compliance with minimum emissions  
2 standards in area B:

3           (a) A motor vehicle manufactured in or before the 1980 model year,  
4 other than a diesel powered vehicle, shall be required to take and pass the  
5 curb idle test condition. A diesel powered vehicle is subject to only a  
6 loaded test condition. The conditioning mode shall, at the option of the  
7 vehicle owner or owner's agent, be administered only after the vehicle has  
8 failed the curb idle test condition. Upon completion of such conditioning  
9 mode, a vehicle that has failed the curb idle test condition may be retested  
10 in the curb idle test condition. If the vehicle passes such retest, it shall  
11 be deemed in compliance with minimum emissions standards unless the vehicle  
12 fails the tampering inspection pursuant to subsection G of this section.

13           (b) A motor vehicle manufactured in or after the 1981 model year,  
14 other than a diesel powered vehicle, shall be required to take and pass the  
15 curb idle test condition and the loaded test condition or an on-board  
16 diagnostic check as may be required pursuant to title II of the clean air  
17 act.

18           2. For purposes of determining compliance with minimum emissions  
19 standards and functional tests in area A:

20           (a) Motor vehicles manufactured in or after model year 1981 with a  
21 gross vehicle weight rating of eighty-five hundred pounds or less, other than  
22 diesel powered vehicles, shall be required to take and pass a transient  
23 loaded emissions test or an on board diagnostic check as may be required  
24 pursuant to title II of the clean air act.

25           (b) Motor vehicles other than those prescribed by subdivision (a) of  
26 this paragraph and other than diesel powered vehicles shall be required to  
27 take and pass a steady state loaded test and a curb idle emissions test.

28           (c) Notwithstanding the requirement of subsection C of this section  
29 that the first emissions inspection after the purchase of a new vehicle be  
30 for the second registration year for that vehicle, a diesel powered motor  
31 vehicle applying for registration or reregistration in area A more than  
32 thirty-three months after the date of initial registration shall be required  
33 to take and pass an annual emissions test conducted at an official emissions  
34 inspection station or a fleet emissions inspection station as follows:

35           (i) A loaded, transient or any other form of test as provided for in  
36 rules adopted by the director for vehicles with a gross vehicle weight rating  
37 of eight thousand five hundred pounds or less.

38           (ii) A test that conforms with the society for automotive engineers  
39 standard J1667 for vehicles with a gross vehicle weight rating of more than  
40 eight thousand five hundred pounds.

41           (d) Motor vehicles by specific class or model year shall be required  
42 to take and pass any of the following tests:

43           (i) An evaporative system purge test.

44           (ii) An evaporative system integrity test.

1 (e) An on board diagnostic check as may be required pursuant to title  
2 II of the clean air act may be conducted for advisory purposes.

3 3. A motorcycle or constant four wheel drive vehicle shall be required  
4 to take and pass a curb idle emissions test.

5 4. Fleet operators in area B which have been issued a permit under  
6 section 49-546 are required to test their vehicles as follows:

7 (a) A motor vehicle manufactured in or before the 1980 model year  
8 shall take and pass only the curb idle test condition, except that a diesel  
9 powered vehicle is subject to only a loaded test condition.

10 (b) A motor vehicle manufactured in or after the 1981 model year shall  
11 take and pass the curb idle test condition and a twenty-five hundred  
12 revolutions per minute unloaded test condition.

13 5. Vehicles owned or operated by the United States, this state or a  
14 political subdivision of this state shall comply with this subsection without  
15 regard to whether those vehicles are required to be registered in this state,  
16 except that alternative fuel vehicles of a school district that is located in  
17 area A shall be required to take and pass the curb idle test condition and  
18 the loaded test condition.

19 6. Fleet operators in area A shall comply with this section, except  
20 that used vehicles sold by a motor vehicle dealer who is a fleet operator and  
21 who has been issued a permit pursuant to section 49-546 for purposes of  
22 determining compliance with minimum emission standards in area A shall test  
23 their vehicles as follows:

24 (a) A motor vehicle manufactured in or before the 1980 model year  
25 shall take and pass the curb idle test condition, except that a diesel  
26 powered vehicle is subject to only a loaded test condition.

27 (b) A motor vehicle manufactured in or after the 1981 model year shall  
28 take and pass the curb idle test condition and a two thousand five hundred  
29 revolutions per minute unloaded test condition.

30 7. Beginning on January 1, 2004 AND EXCEPT FOR ANY REGISTERED OWNER OR  
31 LESSEE OF A FLEET OF LESS THAN TWENTY-FIVE VEHICLES, a diesel powered motor  
32 vehicle with a gross vehicle weight of more than twenty-six thousand pounds  
33 and for which gross weight fees are paid pursuant to title 28, chapter 15,  
34 article 2 in area A shall not be allowed to operate in area A unless it was  
35 manufactured in or after the 1988 model year or is powered by an engine that  
36 is certified to meet or surpass emissions standards contained in 40 Code of  
37 Federal Regulations section 86.088-11. This paragraph does not apply to  
38 vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

39 8. BEGINNING ON JANUARY 1, 2006 FOR ANY REGISTERED OWNER OR LESSEE OF  
40 A FLEET OF LESS THAN TWENTY-FIVE VEHICLES, A DIESEL POWERED MOTOR VEHICLE  
41 WITH A GROSS VEHICLE WEIGHT OF MORE THAN TWENTY-SIX THOUSAND POUNDS AND FOR  
42 WHICH GROSS WEIGHT FEES ARE PAID PURSUANT TO TITLE 28, CHAPTER 15, ARTICLE 2  
43 IN AREA A SHALL NOT BE ALLOWED TO OPERATE IN AREA A UNLESS IT WAS  
44 MANUFACTURED IN OR AFTER THE 1988 MODEL YEAR OR IS POWERED BY AN ENGINE THAT  
45 IS CERTIFIED TO MEET OR SURPASS EMISSIONS STANDARDS CONTAINED IN 40 CODE OF

1 FEDERAL REGULATIONS SECTION 86.088-11. THIS PARAGRAPH DOES NOT APPLY TO  
2 VEHICLES THAT ARE REGISTERED PURSUANT TO TITLE 28, CHAPTER 7, ARTICLE 7 OR 8.

3 G. In addition to an emissions inspection, a vehicle is subject to a  
4 tampering inspection on at least a biennial basis if the vehicle was  
5 manufactured after the 1974 model year and the vehicle is not subject to a  
6 transient loaded emissions test. The director shall adopt vehicle  
7 configuration guidelines for the tampering inspection which shall be based on  
8 the original configuration of the vehicle when manufactured. The tampering  
9 inspection shall consist of the following:

10 1. A visual check to determine the presence of properly installed  
11 catalytic converters.

12 2. An examination to determine the presence of an operational air  
13 pump.

14 3. In area A, if the vehicle was manufactured after the 1974 model  
15 year and is not subject to a transient loaded emissions test, a visual  
16 inspection for the presence or malfunction of the positive crankcase  
17 ventilation system and the evaporative control system.

18 H. Vehicles required to be inspected shall undergo a functional test  
19 of the gas cap to determine if the cap holds pressure within limits  
20 prescribed by the director, except for any vehicle that is subject to an  
21 evaporative system integrity test.

22 I. Motor vehicles failing the initial or subsequent test are not  
23 subject to a penalty fee for late registration renewal if the original  
24 testing was accomplished before the expiration date and if the registration  
25 renewal is received by the motor vehicle division or the county assessor  
26 within thirty days of the original test.

27 J. The director may adopt rules for purposes of implementation,  
28 administration, regulation and enforcement of the provisions of this article  
29 including:

30 1. The submission of records relating to the emissions inspection of  
31 vehicles inspected by another jurisdiction in accordance with another  
32 inspection law and the acceptance of such inspection for compliance with the  
33 provisions of this article.

34 2. The exemption from inspection of:

35 (a) A motor vehicle manufactured in or before the 1966 model year.

36 (b) New vehicles originally registered at the time of initial retail  
37 sale and titling in this state pursuant to section 28-2153 or 28-2154.

38 (c) Vehicles registered pursuant to title 28, chapter 7, article 7  
39 or 8.

40 (d) During each calendar year vehicles of that model year and vehicles  
41 from the prior four model years.

42 (e) Vehicles which will not be available within the state during the  
43 ninety days prior to registration.

44 (f) Golf carts.

45 (g) Electrically-powered vehicles.

1 (h) Vehicles with an engine displacement of less than ninety cubic  
2 centimeters.

3 (i) The sale of vehicles between motor vehicle dealers.

4 (j) Vehicles leased to a person residing outside of area A or area B  
5 by a leasing company whose place of business is in area A or area B.

6 3. Compiling and maintaining records of emissions test results after  
7 servicing.

8 4. A procedure which shall allow the vehicle service and repair  
9 industry to compare the calibration accuracy of its emissions testing  
10 equipment with the department's calibration standards.

11 5. Training requirements for automotive repair personnel using  
12 emissions measuring equipment whose calibration accuracy has been compared  
13 with the department's calibration standards.

14 6. Any other rule which may be required to accomplish the provisions  
15 of this article.

16 K. The director shall, after consultation with automobile  
17 manufacturers and the vehicle service and repair industry, establish by rule  
18 a definition of "low emissions tune-up" for motor vehicles subject to  
19 inspection under this article. The definition shall specify repair  
20 procedures which, when implemented, will reduce vehicle emissions.

21 L. The director shall adopt rules which specify that the estimated  
22 retail cost of all recommended maintenance and repairs shall not exceed the  
23 amounts prescribed in this subsection, except that if a vehicle fails a  
24 tampering inspection there is no limit on the cost of recommended maintenance  
25 and repairs. The director shall issue a certificate of waiver for a vehicle  
26 which has failed reinspection, if the director has determined that all  
27 recommended maintenance and repairs have been performed. If, after  
28 reinspection, the director has determined that the vehicle is in compliance  
29 with minimum emissions standards or that all recommended maintenance and  
30 repairs for compliance with minimum emissions standards have been performed,  
31 but that tampering discovered at a tampering inspection has not been  
32 repaired, the director may issue a certificate of waiver if the owner of the  
33 vehicle provides to the director a written statement from an automobile parts  
34 or repair business that an emissions control device which is necessary to  
35 repair the tampering is not available and cannot be obtained from any usual  
36 source of supply before the vehicle's current registration expires. Rules  
37 adopted by the director for the purpose of establishing the estimated retail  
38 cost of all recommended maintenance and repairs pursuant to this subsection  
39 shall specify that:

40 1. In area A the cost shall not exceed:

41 (a) Five hundred dollars for a diesel powered vehicle with a gross  
42 weight in excess of twenty-six thousand pounds.

43 (b) Five hundred dollars for a diesel powered vehicle with tandem  
44 axles.

1 (c) For a vehicle other than a diesel powered vehicle with a gross  
2 weight in excess of twenty-six thousand pounds and other than a diesel  
3 powered vehicle with tandem axles:

4 (i) Two hundred dollars for such a vehicle manufactured in or before  
5 the 1974 model year.

6 (ii) Three hundred dollars for such a vehicle manufactured in the 1975  
7 through 1979 model years.

8 (iii) Four hundred fifty dollars for such a vehicle manufactured in or  
9 after the 1980 model year.

10 2. In area B the cost shall not exceed:

11 (a) Three hundred dollars for a diesel powered vehicle with a gross  
12 weight in excess of twenty-six thousand pounds.

13 (b) Three hundred dollars for a diesel powered vehicle with tandem  
14 axles.

15 3. For a vehicle other than a diesel powered vehicle with a gross  
16 weight in excess of twenty-six thousand pounds and other than a diesel  
17 powered vehicle with tandem axles:

18 (a) Fifty dollars for such a vehicle manufactured in or before the  
19 1974 model year.

20 (b) Two hundred dollars for such a vehicle manufactured in the 1975  
21 through 1979 model years.

22 (c) Three hundred dollars for such a vehicle manufactured in or after  
23 the 1980 model year.

24 M. Each person whose vehicle has failed an emissions inspection shall  
25 be provided a list of those general recommended tune-up procedures for  
26 vehicles which are designed to reduce vehicle emissions levels. The list  
27 shall include the following notice: "This test is the result of federal law.  
28 You may wish to contact your representative in the United States Congress."

29 N. Notwithstanding any other provisions of this article, the director  
30 may adopt rules allowing exemptions from the requirement that all vehicles  
31 must meet the minimum standards for registration or reregistration.

32 O. The director of environmental quality shall establish, in  
33 cooperation with the assistant director for the motor vehicle division of the  
34 department of transportation:

35 1. An adequate method for identifying bona fide residents residing  
36 outside of area A or area B to ensure that such residents are exempt from  
37 compliance with the inspection program established by this article and rules  
38 adopted under this article.

39 2. A written notice that shall accompany the vehicle registration  
40 application forms that are sent to vehicle owners pursuant to section 28-2151  
41 and that shall accompany or be included as part of the vehicle emissions test  
42 results that are provided to vehicle owners at the time of the vehicle  
43 emissions test. This written notice shall describe at least the following:

44 (a) The restriction of the waiver program to one time per vehicle and  
45 a brief description of the implications of this limit.

1 (b) The availability and a brief description of the vehicle repair and  
2 retrofit program established pursuant to section 49-474.03.

3 (c) Notice that many vehicles carry extended warranties for vehicle  
4 emissions systems, and those warranties are described in the vehicle's  
5 owner's manual or other literature.

6 (d) A description of the catalytic converter replacement program  
7 established pursuant to section 49-474.03.

8 P. Notwithstanding any other law, if area A or area B is reclassified  
9 as an attainment area, emissions testing conducted pursuant to this article  
10 shall continue for vehicles registered inside that reclassified area,  
11 vehicles owned by a person who is subject to section 15-1444 or 15-1627 and  
12 vehicles registered outside of that reclassified area but used to commute to  
13 the driver's principal place of employment located within that reclassified  
14 area.

15 Q. A fleet operator who is issued a permit pursuant to section 49-546  
16 may electronically transmit emissions inspection data to the department of  
17 transportation pursuant to rules adopted by the director of the department of  
18 transportation in consultation with the director of environmental quality.

19 R. The director shall prohibit a certificate of waiver pursuant to  
20 subsection L of this section for any vehicle which has failed inspection in  
21 area A due to the catalytic converter system.

22 S. The director shall establish provisions for rapid testing of  
23 certain vehicles and to allow fleet operators, singly or in combination, to  
24 contract directly for vehicle emissions testing.

25 T. Each vehicle emissions control station in area A shall have a sign  
26 posted to be visible to persons who are having their vehicles tested. This  
27 sign shall state that enhanced testing procedures are a direct result of  
28 federal law.

29 U. The initial adoption of rules pursuant to this section shall be  
30 deemed emergency rules pursuant to section 41-1026.

31 V. The director of environmental quality and the director of the  
32 department of transportation shall implement a system to exchange information  
33 relating to the waiver program, including information relating to vehicle  
34 emissions test results and vehicle registration information.

35 W. Any person who sells a vehicle that has been issued a certificate  
36 of waiver pursuant to this section after January 1, 1997 and who knows that a  
37 certificate of waiver has been issued after January 1, 1997 for that vehicle  
38 shall disclose to the buyer before completion of the sale that a certificate  
39 of waiver has been issued for that vehicle.

40 X. Vehicles that fail the emissions test at emission levels higher  
41 than twice the standard established for that vehicle class by the department  
42 pursuant to section 49-447 are not eligible for a certificate of waiver  
43 pursuant to this section unless the vehicle is repaired sufficiently to  
44 achieve an emissions level below twice the standard for that class of  
45 vehicle.