

FIRST REGULAR SESSION

HOUSE BILL NO. 697

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LEMBKE (Sponsor), PORTWOOD, ST. ONGE, JACKSON, DEMPSEY, NIEVES, BIVINS, SMITH (14), CUNNINGHAM (86), BEARDEN, THRELKELD, SCHNEIDER, ICET, DAVIS, PARKER, YAEGER, SUTHERLAND, VOGT, CORCORAN, ZWEIFEL, HUBBARD, LIESE, MEADOWS AND AVERY (Co-sponsors).

Read 1st time March 2, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0696L.011

AN ACT

To repeal sections 307.366, 643.315, and 643.335, RSMo, and to enact in lieu thereof four new sections relating to motor vehicles emissions testing, with penalty provisions and an effective date for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 307.366, 643.315, and 643.335, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 307.366, 643.315, 643.335, and 1 to 3 read as follows:

307.366. 1. This enactment of the emissions inspection program is a mandate of the 2 United States Congress pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et 3 seq. In any portion of an area designated by the governor as a nonattainment area, as defined in 4 the federal Clean Air Act, as amended, 42 U.S.C.A. Section 7501, and located within the area 5 described in subsection 1 of section 643.305, RSMo, certain motor vehicles shall be tested and 6 approved prior to sale or transfer, **unless such testing and approval has occurred in the 7 ninety-day period immediately preceding such sale or transfer**, and biennially thereafter to 8 determine that the emissions system is functioning within the emission standards as specified by 9 the Missouri air conservation commission and as required to attain the national health standards 10 for air quality. For such biennial testing, any such vehicle manufactured as an even-numbered 11 model year vehicle shall be tested and approved in each even-numbered calendar year and any

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 such vehicle manufactured as an odd-numbered model year vehicle shall be tested and approved
13 in each odd-numbered calendar year. The motor vehicles to be tested shall be all motor vehicles
14 except those specifically exempted pursuant to subdivisions (1) to (3) of subsection 1 of section
15 307.350 and those exempted pursuant to this section.

16 2. The provisions of this section shall not apply to:

17 (1) Motor vehicles [with a manufacturer's gross vehicle weight rating in excess of eight
18 thousand five hundred pounds] **within the first four years of the specific model year for such**
19 **motor vehicle;**

20 (2) Motorcycles and motortricycles;

21 (3) Model year vehicles manufactured twenty-six years or more prior to the current
22 model year;

23 (4) School buses;

24 (5) Diesel-powered vehicles;

25 (6) Motor vehicles registered in the area covered by this section but which are based and
26 operated exclusively in an area of this state not subject to the provisions of this section if the
27 owner of such vehicle presents to the director a sworn affidavit that the vehicle will be based and
28 operated outside the covered area;

29 (7) **Motor vehicles owned by persons sixty-five years of age or older which have an**
30 **odometer reading increase of less than five thousand miles per year since the odometer**
31 **reading of such motor vehicle at the immediately preceding emissions inspection;**

32 (8) New and unused motor vehicles, of model years of the current calendar year and of
33 any calendar year within two years of such calendar year, which have an odometer reading of less
34 than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed
35 motor vehicle dealer to the first user; and

36 [(8)] (9) Motor vehicles owned by a person who resides in a county of the first
37 classification without a charter form of government with a population of less than one hundred
38 thousand inhabitants according to the most recent decennial census who has completed an
39 emission inspection pursuant to section 643.315, RSMo.

40

41 [Each official inspection station which conducts emissions inspections within the area referred
42 to in subsection 1 of this section shall indicate the gross vehicle weight rating of the motor
43 vehicle on the inspection certificate if the vehicle is exempt from the emissions inspection
44 pursuant to subdivision (1) of this subsection.]

45 3. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550,
46 RSMo, may choose to sell a motor vehicle subject to the inspection requirements of this section
47 either:

48 (a) With prior inspection and approval as provided in subdivision (2) of this subsection;
49 or

50 (b) Without prior inspection and approval as provided in subdivision (3) of this
51 subsection.

52 (2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer
53 shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the
54 emissions standards established pursuant to this section or by obtaining a waiver pursuant to
55 subsection 6 of this section. A vehicle sold pursuant to this subdivision by a licensed motor
56 vehicle dealer shall be inspected and approved within the one hundred twenty days immediately
57 preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection
58 shall be considered timely.

59 (3) If the dealer chooses to sell the vehicle without prior inspection and approval, the
60 purchaser may return the vehicle within ten days of the date of purchase, provided that the
61 vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails,
62 upon inspection, to meet the emissions standards specified by the commission and the dealer
63 shall have the vehicle inspected and approved without the option for a waiver of the emissions
64 standard and return the vehicle to the purchaser with a valid emissions certificate and sticker
65 within five working days or the purchaser and dealer may enter into any other mutually
66 acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and
67 approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the
68 purchaser has the option to return the vehicle within ten days, provided that the vehicle has no
69 more than one thousand additional miles since the time of sale, to have the dealer repair the
70 vehicle and provide an emissions certificate and sticker within five working days if the vehicle
71 fails, upon inspection, to meet the emissions standards established by the commission, or enter
72 into any mutually acceptable agreement with the dealer. A violation of this subsection shall be
73 an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be
74 required pursuant to this section for the sale of any motor vehicle which may be sold without a
75 certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

76 4. A fee not to exceed twenty-four dollars may be charged for an automobile emissions
77 and air pollution control inspection in order to attain the national health standards for air quality.
78 Such fee shall be conspicuously posted on the premises of each such inspection station. The
79 official emissions inspection station shall issue a certificate of inspection and an approval sticker
80 or seal certifying the emissions system is functioning properly. The certificate or approval issued
81 shall bear the legend: "This cost is mandated by your United States Congress.". No owner shall
82 be charged an additional fee after having corrected defects or unsafe conditions in the
83 automobile's emissions and air pollution control system if the reinspection is completed within

84 twenty consecutive days, excluding Saturdays, Sundays and holidays, and if such follow-up
85 inspection is made by the station making the initial inspection.

86 5. The air conservation commission shall establish, by rule, a waiver amount which may
87 be lower for older model vehicles and which shall be no greater than seventy-five dollars for
88 model year vehicles prior to 1981 and no greater than two hundred dollars for model year
89 vehicles of 1981 and all subsequent model years.

90 6. An owner whose vehicle fails upon reinspection to meet the emission standards
91 specified by the Missouri air conservation commission shall be issued a certificate of inspection
92 and an approval sticker or seal by the official emissions inspection station that provided the
93 inspection if the vehicle owner furnishes a complete, signed affidavit satisfying the requirements
94 of this subsection and the cost of emissions repairs and adjustments is equal to or greater than
95 the waiver amount established by the air conservation commission pursuant to this section. The
96 air conservation commission shall establish, by rule, a form and a procedure for verifying that
97 repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and
98 approval. **Such rule shall include, but not be limited to, the following provisions:**

99 **(1) A failing vehicle may be repaired by any mechanic of the owner's choice or by**
100 **the owner and remain eligible for the granting of a waiver. No failing vehicle shall be**
101 **required to be repaired by a mechanic recommended, suggested, or listed by any agency**
102 **of the state as an approved mechanic for conducting such repairs; and**

103 **(2) The waiver amount established by the air conservation commission shall include**
104 **the labor costs associated with such repairs, including labor costs incurred if the repairs**
105 **are made by a mechanic of the owner's choice or the owner as permitted in subdivision (1)**
106 **of this subsection.**

107

108 The waiver form established pursuant to this subsection shall be an affidavit requiring:

109 (1) A statement signed by the repairer that the specified work was done and stating the
110 itemized charges for the work, **including labor**; and

111 (2) A statement signed by the inspector that an inspection of the vehicle verified, to the
112 extent practical, that the specified work was done.

113 7. The department of revenue shall require evidence of the inspection and approval
114 required by this section in issuing the motor vehicle annual registration in conformity with the
115 procedure required by sections 307.350 to 307.370.

116 8. Each emissions inspection station located in the area described in subsection 1 of this
117 section shall purchase from the highway patrol sufficient forms and stickers or other devices to
118 evidence approval of the motor vehicle's emissions control system. In addition, emissions
119 inspection stations may be required to purchase forms for use in automated analyzers from

120 outside vendors of the inspection station's choice. The forms must comply with state regulations.

121 9. In addition to the fee collected by the superintendent pursuant to subsection 5 of
122 section 307.365, the highway patrol shall collect a fee of seventy-five cents for each automobile
123 emissions certificate issued to the applicable official emissions inspection stations, except that
124 no charge shall be made for certificates of inspection issued to official emissions inspection
125 stations operated by governmental entities. All fees collected by the superintendent pursuant to
126 this section shall be deposited in the state treasury to the credit of the "Missouri Air Pollution
127 Control Fund", which is hereby created.

128 10. The moneys collected and deposited in the Missouri air pollution control fund
129 pursuant to this section shall be allocated on an equal basis to the Missouri state highway patrol
130 and the Missouri department of natural resources, air pollution control program, and shall be
131 expended subject to appropriation by the general assembly for the administration and
132 enforcement of sections 307.350 to 307.390. The unexpended balance in the fund at the end of
133 each appropriation period shall not be transferred to the general revenue fund, except as directed
134 by the general assembly by appropriation, and the provisions of section 33.080, RSMo, relating
135 to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply
136 to this fund. The moneys in the fund shall be invested by the treasurer as provided by law, and
137 the interest shall be credited to the fund.

138 11. The superintendent of the Missouri state highway patrol shall issue such rules and
139 regulations as are necessary to determine whether a motor vehicle's emissions control system is
140 operating as required by subsection 1 of this section, and the superintendent and the state
141 highways and transportation commission shall use their best efforts to seek federal funds from
142 which reimbursement grants may be made to those official inspection stations which acquire and
143 use the necessary testing equipment which will be required to perform the tests required by the
144 provisions of this section.

145 12. The provisions of this section shall not apply in any county for any time period
146 during which the air conservation commission has established a motor vehicle emissions
147 inspection program pursuant to sections 643.300 to 643.355, RSMo, for such county, except
148 where motor vehicle owners have the option of biennial testing pursuant to chapter 643, RSMo.
149 In counties where such option is available, the emissions inspection may be conducted in stations
150 conducting only an emissions inspection under contract to the state.

151 13. Notwithstanding the provisions of section 307.390, violation of this section shall be
152 deemed a class C misdemeanor.

643.315. 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which
2 are domiciled, registered or primarily operated in an area for which the commission has
3 established a motor vehicle emissions inspection program pursuant to sections 643.300 to

4 643.355, which may include all motor vehicles owned by residents of a county of the first
5 classification without a charter form of government with a population of less than one hundred
6 thousand inhabitants according to the most recent decennial census who have chosen to
7 participate in such a program in lieu of the provisions of section 307.366, RSMo, shall be
8 inspected and approved prior to sale or transfer, **unless such inspection and approval has**
9 **occurred in the ninety-day period immediately preceding such sale or transfer.** In addition,
10 any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and
11 approved under the emissions inspection program established pursuant to sections 643.300 to
12 643.355 in each even-numbered calendar year and any such vehicle manufactured as an
13 odd-numbered model year vehicle shall be inspected and approved under the emissions
14 inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered
15 calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to
16 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid
17 emissions inspection certificate shall be presented at the time of registration or registration
18 renewal of such motor vehicle.

19 2. No emission standard established by the commission for a given make and model year
20 shall exceed the lesser of the following:

21 (1) The emission standard for that vehicle model year as established by the United States
22 Environmental Protection Agency; or

23 (2) The emission standard for that vehicle make and model year as established by the
24 vehicle manufacturer.

25 3. The inspection requirement of subsection 1 of this section shall apply to all motor
26 vehicles except:

27 (1) Motor vehicles [with a manufacturer's gross vehicle weight rating in excess of eight
28 thousand five hundred pounds] **within the first four years of the specific model year for such**
29 **motor vehicle;**

30 (2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle
31 emissions inspection under federal regulation and approved by the commission by rule;

32 (3) Model year vehicles manufactured twenty-six years or more prior to the current
33 model year;

34 (4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels
35 other than gasoline which are exempted from the motor vehicle emissions inspection under
36 federal regulation and approved by the commission by rule;

37 (5) Motor vehicles registered in an area subject to the inspection requirements of sections
38 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not
39 subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of

40 such vehicle presents to the department an affidavit that the vehicle will be operated exclusively
41 in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355
42 for the next twenty-four months, and the owner applies for and receives a waiver which shall be
43 presented at the time of registration or registration renewal;

44 **(6) Motor vehicles owned by persons sixty-five years of age or older which have an**
45 **odometer reading increase of less than five thousand miles per year since the odometer**
46 **reading of such motor vehicle at the immediately preceding emissions inspection;**

47 (7) New and unused motor vehicles, of model years of the current calendar year and of
48 any calendar year within two years of such calendar year, which have an odometer reading of less
49 than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed
50 motor vehicle dealer to the first user; and

51 [(7)] **(8)** Historic motor vehicles registered pursuant to section 301.131, RSMo.

52 4. The commission may, by rule, allow inspection reciprocity with other states having
53 equivalent or more stringent testing and waiver requirements than those established pursuant to
54 sections 643.300 to 643.355.

55 5. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550,
56 RSMo, may choose to sell a motor vehicle subject to the inspection requirements of sections
57 643.300 to 643.355 either:

58 (a) With prior inspection and approval as provided in subdivision (2) of this subsection;
59 or

60 (b) Without prior inspection and approval as provided in subdivision (3) of this
61 subsection.

62 (2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer
63 shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the
64 emissions standards established pursuant to sections 643.300 to 643.355 or by obtaining a waiver
65 pursuant to section 643.335. A vehicle sold pursuant to this subdivision by a licensed motor
66 vehicle dealer shall be inspected and approved within the one hundred twenty days immediately
67 preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection
68 shall be considered timely.

69 (3) If the dealer chooses to sell the vehicle without prior inspection and approval, the
70 purchaser may return the vehicle within ten days of the date of purchase, provided that the
71 vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails,
72 upon inspection, to meet the emissions standards specified by the commission and the dealer
73 shall have the vehicle inspected and approved without the option for a waiver of the emissions
74 standard and return the vehicle to the purchaser with a valid emissions certificate and sticker
75 within five working days or the purchaser and dealer may enter into any other mutually

76 acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and
77 approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the
78 purchaser has the option to return the vehicle within ten days, provided that the vehicle has no
79 more than one thousand additional miles since the time of sale, to have the dealer repair the
80 vehicle and provide an emissions certificate and sticker within five working days if the vehicle
81 fails, upon inspection, to meet the emissions standards established by the commission, or enter
82 into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be
83 an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be
84 required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may
85 be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of
86 section 307.380, RSMo.

643.335. 1. The commission shall establish, by rule, a waiver amount which may be
2 lower for older model vehicles and which, prior to January 1, 2001, shall be no greater than
3 seventy-five dollars for model year vehicles prior to 1981, no greater than two hundred dollars
4 for model year vehicles of 1981 to 1996 and no greater than four hundred and fifty dollars for
5 model year vehicles of 1997 and all subsequent model years. On and after January 1, 2001, the
6 commission may, by rule, set the waiver amount, except that the waiver amount shall not exceed
7 the waiver amount provided in the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq.,
8 and the regulations promulgated thereunder for the enhanced motor vehicle emissions inspection.

9 2. The commission shall establish, by rule, a form and a procedure for verifying that
10 repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and
11 approval.

12 3. The waiver form established pursuant to subsection 2 of this section shall be an
13 affidavit requiring:

14 (1) A statement signed by the repairer that the specified work was done and stating the
15 itemized charges for the work, **including labor**; and

16 (2) A statement signed by the emissions inspection contractor that an inspection of the
17 vehicle verified, to the extent practical, that the specified work was done.

18 4. A vehicle which fails upon reinspection to meet the emissions standards specified by
19 the commission shall have the emissions standards waived and receive approval only if the
20 owner furnishes a complete, signed affidavit satisfying the requirements of subsection 3 of this
21 section and the cost of the parts, repairs and adjustment work performed is equal to or greater
22 than the waiver amount established by the commission. [Costs for repair work may only be
23 included toward reaching the waiver amount if the repairs are performed by a recognized repair
24 technician as defined by rule.] **For any motor vehicle which fails upon reinspection, the**
25 **following provisions shall apply:**

26 **(1) A failing vehicle may be repaired by any mechanic of the owner's choice or by**
27 **the owner and remain eligible for the granting of a waiver. No failing vehicle shall be**
28 **required to be repaired by a mechanic recommended, suggested, or listed by any agency**
29 **of the state as an approved mechanic for conducting such repairs; and**

30 **(2) The waiver amount established by the air conservation commission shall include**
31 **the labor costs associated with such repairs, including labor costs incurred if the repairs**
32 **are made by a mechanic of the owner's choice or the owner as permitted in subdivision (1)**
33 **of this subsection.**

34 5. No cost for parts, repairs or adjustments shall be included toward reaching the waiver
35 amount if such costs are covered by an emission control performance warranty provided by the
36 manufacturer at no additional cost to the vehicle owner unless the vehicle owner provides, with
37 the affidavit, a written denial of warranty remedy from the motor vehicle manufacturer, dealer
38 or other person providing the warranty.

39 6. No cost for parts, repairs or adjustments shall be included toward reaching the waiver
40 amount if such costs are required to correct the effects of tampering with emissions systems or
41 air pollution control devices.

Section 1. The department of natural resources shall consult and negotiate, if
2 **necessary, with the federal Environment Protection Agency regarding any rule changes**
3 **required by the provisions of sections 307.366, 643.315, and 643.335, RSMo, which may**
4 **adversely impact this state's compliance with the federal Clean Air Act. No later than**
5 **September 1, 2005, any proposed rules to be promulgated or modified under the authority**
6 **of sections 307.366, 643.315, and 643.335, RSMo, based on the amendments to such sections**
7 **shall be submitted to the joint interim committee on emissions, which is hereby established**
8 **to operate in the 2005 legislative interim. The committee shall provide its comments and**
9 **recommendations on such proposed rules on or before November 1, 2005. This section**
10 **shall terminate on January 1, 2006.**

 Section B. The repeal and reenactment of sections 307.366, 643.315, and 643.335 of
2 section A of this act shall become effective January 1, 2006.