

SENATE BILL REPORT

SB 6419

As of January 25, 2016

Title: An act relating to air pollution emission control devices.

Brief Description: Concerning air pollution emission control devices.

Sponsors: Senators Ranker, Nelson, Rolfes, Frockt and Chase.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/26/16.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: Under the federal Clean Air Act (CAA), the United States Environmental Protection Agency (EPA) regulates air emissions from area, stationary, and mobile sources. The CAA prohibits the manufacture, sale, or installation of any device that bypasses, defeats, or renders inoperative a required element of the emissions control system. It also requires certificates of conformity for the sale of motor vehicles and engines.

The CAA provides states with the option to implement either federal motor vehicle emission standards or California motor vehicle emissions standards for passenger cars, light duty trucks, and medium duty passenger vehicles. In 2005, the Legislature adopted the California motor vehicle emissions standards and authorized the Department of Ecology (Ecology) to adopt rules to implement these emission standards for 2009 and newer model vehicles.

The rules implementing the motor vehicle emissions standards establish a penalty of up to \$5,000 per vehicle for violations of these requirements. Ecology must follow certain notice and timeline requirements for the imposition of penalties. Penalties may be appealed to the Pollution Control Hearings Board (PCHB).

PCHB is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties made by Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

In September 2015, the EPA issued a notice of violation of the federal CAA to Volkswagen alleging that four-cylinder Volkswagen and Audi diesel cars from model years 2009-2015

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include software that circumvents the EPA emission standards for certain air pollutants. The Department of Justice filed a complaint on behalf of the EPA against Volkswagen for alleged violations of the CAA. Washington State and California have also taken steps in enforcement action for violations of the states' clean air acts.

State law provides for consumer protection from unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.

Summary of Bill: Ecology is authorized to conduct vehicle testing to volunteering vehicle owners to ensure manufacturer compliance with emissions standards. Vehicle owners must be compensated for the use of their vehicle during the testing period.

In addition to, or as an alternative to, any other penalties, any person who violates the motor vehicle emissions standards will incur a civil penalty not to exceed \$10,000 per vehicle. The penalties are appealable to the PCHB.

The Motor Vehicle Emission Control (MVEC) subaccount is created within the Air Pollution Control Account. The recovery of all penalties from violations of motor vehicle emissions standards must be credited to the MVEC subaccount. The funds in the MVEC subaccount may be used to support manufacturer compliance testing, to mitigate and respond to adverse public health and environmental effects from increased air pollution from motor vehicles, and to assist motor vehicle owners to obtain full and fair remedies for damages caused by the manufacturer or importer violations to the motor vehicle emissions standards.

The Legislature finds that:

- when a motor vehicle manufacturer or importer fails to comply with motor vehicle emission standards, including compliance certification and warranty requirements, it is an unfair act in trade or commerce and unfair method or competition under the Consumer Protection Act ; and
- manufacturers are entirely responsible for correcting failures and fully compensating vehicle owners for necessary repairs when the vehicle manufacturer provides false certification and compliance with emission control devices.

Appropriation: None.

Fiscal Note: Requested on January 23, 2015.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.