



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3661

Introduced 2/28/2007, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

625 ILCS 5/13-109.4 new

Amends the Illinois Vehicle Code. Provides that on and after December 31, 2008, specified heavy-duty, diesel powered vehicles must be equipped with federally mandated computer hardware, software, or both, to control nitrogen oxide emissions. Establishes procedures for notification of affected vehicle owners and for compliance with and enforcement of these requirements. Provides that, if the owner of an affected vehicle does not comply with these requirements, the vehicle's registration may be suspended and any new registration or re-registration may be prohibited. Provides that the vehicle may be placed out of service, in accordance with Department of Transportation Rules. Provides that operation of a vehicle that has been placed out of service under the provision is a petty offense punishable by a fine of \$1,000. Effective immediately.

LRB095 03629 DRH 23651 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by adding
5 Section 13-109.4 as follows:

6 (625 ILCS 5/13-109.4 new)

7 Sec. 13-109.4. Nitrogen oxide emissions control.

8 (a) Applicability. The requirements of this Section apply
9 to owners of heavy-duty, diesel powered vehicles, registered in
10 this State, that:

11 (1) have a GVWR greater than 16,000 lbs.;

12 (2) are of the model years 1993 through 1998; and

13 (3) are powered by affected engines as defined in
14 subsection (b).

15 (b) Definitions. As used in this Section:

16 (1) "Affected engine" means any engine identified in
17 the consent decrees pertaining to manufacturers of motor
18 vehicle diesel engines, referenced in the Federal
19 Register, Vol. 63, No. 212, for Tuesday, November 3, 1998,
20 pages 59330 through 59334.

21 (2) "Department of Transportation" means the Illinois
22 Department of Transportation.

23 (3) "GVWR" means gross vehicle weight rating.

1 (4) "Inspection site" means (i) an official testing
2 station certified by the Department of Transportation to
3 perform truck safety inspections or (ii) any other place
4 used for conducting a nonscheduled safety inspection at any
5 location within this State.

6 (5) "Inspector" means an operator of an official
7 testing station or a person otherwise authorized by the
8 Department of Transportation to perform inspections.

9 (6) "NOx" means nitrogen oxide.

10 (7) "Low NOx Rebuild Kit" means a manufacturer's
11 upgrade of software, hardware, or both, required under the
12 consent decrees described in paragraph (1) of this
13 subsection (b) to be installed on the engine control module
14 of an affected engine. These kits are identified by each
15 manufacturer in its respective Low NOx Rebuild Plan.

16 (8) "Low NOx Rebuild Label" means a label, as
17 stipulated in the consent decrees described in paragraph
18 (1) of this subsection (b), that meets all of the following
19 specifications:

20 (A) it contains an identifiable characteristic
21 allowing an inspector to determine whether an affected
22 engine has had the appropriate Low NOx Rebuild Kit
23 installed;

24 (B) it contains a statement with appropriate blank
25 spaces for the individual performing the installation
26 to indicate when and by whom the Low NOx Rebuild Kit

1 was installed on the engine;

2 (C) it is readily visible upon opening the engine
3 compartment;

4 (D) it is fabricated of a material suitable for the
5 location in which it is installed; and

6 (E) it is not readily removable intact.

7 (9) "Owner" means the person or other legal entity
8 registered as the owner of a vehicle by the Secretary of
9 State.

10 (10) "Post-repair inspection" means a repeat
11 inspection, for the purpose of demonstrating compliance
12 with the standards of subsection (c), following initial
13 non-compliance.

14 (11) "Potentially affected vehicle" means a vehicle,
15 with a model year of 1993 through 1998 and a GVWR of 16,000
16 lbs. or greater, that is potentially subject to having an
17 affected engine.

18 (12) "Reflash" means to reconfigure the engine's
19 computer control chip to recalibrate the engine and lower
20 its NOx emissions.

21 (13) "Repair facility" means (i) any place where
22 potentially affected vehicles are repaired, rebuilt,
23 reconditioned, or in any way maintained for the public at a
24 charge and (ii) any fleet maintenance facility.

25 (14) "Scan tool evaluation" means an inspector's use of
26 an electronic device capable of determining if a Low NOx

1 Rebuild Kit is installed.

2 (15) "Tamper" means to disconnect, detach, deactivate,
3 alter, or modify from the design of the original equipment
4 manufacturer, a Low NOx Rebuild Kit or Label, except
5 temporarily for the purpose of diagnosis, maintenance,
6 repair, or replacement with an identical kit or label.

7 (c) Compliance requirements:

8 (1) On and after December 31, 2008, any heavy-duty,
9 diesel-powered vehicle registered in this State that has a
10 GVWR greater than 16,000 lbs., is of the model years 1993
11 through 1998, and is powered by an affected engine must
12 have a Low NOx Rebuild Kit installed and a readily
13 observable Low NOx Rebuild Label permanently affixed to its
14 engine. Any person who operates or permits the operation of
15 a heavy-duty vehicle that is subject to, but not in
16 compliance with, the requirements of this subdivision
17 (c)(1), is in violation of this Section.

18 (2) Any person installing a Low NOx Rebuild Kit must
19 permanently affix a Low NOx Rebuild Label at the time of
20 installation.

21 (3) A person may not tamper with an installed Low NOx
22 Rebuild Kit or a Low NOx Rebuild Label.

23 (4) Compliance with the requirement to install a Low
24 NOx Rebuild Kit may be determined from the results of a
25 scan tool evaluation.

26 (5) A person may install other engine control software

1 if (i) the software includes the applicable Low NOx Rebuild
2 Kit or (ii) the software enhancements are unrelated to
3 reducing NOx emissions.

4 (d) Notification. The Illinois Environmental Protection
5 Agency shall, no later than November 1, 2007, notify the owner
6 of any potentially affected vehicle that the owner must:

7 (1) install a Low NOx Rebuild Kit in the vehicle;

8 (2) submit to the Illinois Environmental Protection
9 Agency appropriate proof that a Low NOx Rebuild Kit has
10 been installed in the vehicle; or

11 (3) submit to the Illinois Environmental Protection
12 Agency appropriate proof that the vehicle is not required
13 to have the Low NOx Rebuild Kit installed.

14 (e) Compliance. The owner of a potentially affected vehicle
15 shall provide proof that his or her vehicle is in compliance
16 with this section through one of the following means:

17 (1) by presenting the vehicle to an inspection site and
18 having the inspector determine:

19 (A) that the vehicle does not contain an affected
20 engine; or

21 (B) that the engine has been properly reflashed,
22 either by visual examination for the presence of a Low
23 NOx Rebuild Label or by the use of a scan tool to
24 verify the installation of Low NOx Rebuild software.

25 The Department of Transportation shall, within 30 days
26 of the end of the month in which the inspection is

1 performed, provide the Environmental Protection Agency
2 a copy of each inspection report.

3 (2) by submitting to the Illinois Environmental
4 Protection Agency proof that:

5 (A) the potentially affected engine has received
6 and retained the Low NOx Rebuild Kit; or

7 (B) the vehicle does not contain an affected engine
8 as follows:

9 (i) by submitting proof of the installation of
10 a Low NOx Rebuild Kit in the form of a repair
11 receipt or completed work order containing the
12 following information: the name, address, and
13 phone number of the facility performing the
14 installation; the name of the person performing
15 the installation; the date of the installation; a
16 description of affected engine, including the
17 engine model and engine family number and the Low
18 NOx Rebuild Kit installed; or

19 (ii) by submitting proof that the potentially
20 affected vehicle is not required to have the Low
21 NOx Rebuild Kit installed, either because the
22 vehicle does not contain an affected engine (as
23 attested to by the vehicle owner and a repair
24 facility) or because the vehicle is not registered
25 in Illinois.

26 (f) Enforcement. The owner of a potentially affected

1 vehicle who does not comply with this Section is subject to the
2 following action:

3 (1) Registration of the owner's vehicle may be
4 suspended, and any new registration or re-registration may
5 be prohibited.

6 (2) The owner's vehicle may be placed out of service in
7 accordance with rules adopted by the Department of
8 Transportation. Operating a vehicle that has been placed
9 out of service is a petty offense punishable by a \$1,000
10 fine. The vehicle must pass a Low NOx Rebuilt Kit
11 inspection at an official testing station before it is
12 again placed in service, or the owner must submit
13 sufficient proof that the vehicle meets the requirements
14 for non-applicability under subdivision (e) (2) (B).

15 The Secretary of State, the Department of State Police, and
16 other law enforcement agencies shall enforce this Section. No
17 authorized emergency vehicle, as defined in Section 1-105, may
18 be placed out of service under this Section.

19 (g) Severability. If any provision of this Section or its
20 application to any person or circumstance is held invalid, the
21 invalidity of that provision or application does not affect
22 other provisions or applications of this Section that can be
23 given effect without the invalid provision or application.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.