

## CHAPTER 225

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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**HOUSE BILL 06-1302**

BY REPRESENTATIVE(S) Stengel, Crane, Decker, Gardner, Hefley, Kerr J., Knoedler, Larson, Liston, Madden, Penry, Schultheis, Witwer, Berens, and Stafford;  
also SENATOR(S) Gordon, Dyer, Evans, Fitz-Gerald, Groff, Jones, May R., McElhany, Mitchell, Shaffer, Taylor, Veiga, and Wiens.

**AN ACT****CONCERNING AUTO EMISSIONS TESTING, AND MAKING AN APPROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** The general assembly hereby declares that it intends to continue to encourage the department of public health and environment to focus its efforts on remote sensing technology for monitoring vehicle emissions.

**SECTION 2.** 42-4-304, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**42-4-304. Definitions relating to automobile inspection and readjustment program.** As used in sections 42-4-301 to 42-4-316, unless the context otherwise requires:

(15.5) "HIGH EMITTER PROGRAM" MEANS A PROGRAM TO IDENTIFY MOTOR VEHICLES WHOSE EMISSIONS OR AIR POLLUTANTS ARE SUBSTANTIALLY HIGHER THAN THE LEVELS DEEMED ACCEPTABLE UNDER THE AIR PROGRAM. SUCH VEHICLES SHALL BE REPAIRED IN COMPLIANCE WITH THE AIR PROGRAM OR SHALL BE SUBJECT TO ADMINISTRATIVE SUSPENSION OF VEHICLE REGISTRATION.

(23.5) "VEHICLE" MEANS A MOTOR VEHICLE AS DEFINED IN SUBSECTION (18) OF THIS SECTION.

**SECTION 3.** 42-4-307, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**42-4-307. Powers and duties of the department of public health and environment - division of administration - automobile inspection and readjustment program - basic emissions program - enhanced emissions program - clean screen program.** (12) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL WORK WITH THE CONTRACTOR TO DEVELOP A HIGH EMITTER PROGRAM THAT IS ACCEPTABLE TO THE ENVIRONMENTAL PROTECTION AGENCY.

(13) BEGINNING JULY 1, 2007, AND ON OR BEFORE OCTOBER 15 OF EACH YEAR THEREAFTER, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN COOPERATION WITH THE CONTRACTOR, SHALL BRIEF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE ON THE COST AND EFFECTIVENESS OF THE HIGH-EMITTER PROGRAM. THE BRIEFING SHALL COMPARE THE EFFECTIVENESS OF THE HIGH-EMITTER PROGRAM TO OTHER EMISSIONS REDUCTION OPTIONS, INCLUDING, BUT NOT LIMITED TO, THE ELIMINATION OF THE AIR PROGRAM, THE ELIMINATION OF THE REQUIREMENT FOR REGULAR MOTOR VEHICLE EMISSIONS INSPECTIONS, AND THE APPROPRIATE REDUCTION OF THE EMISSIONS INSPECTION FEE.

(14) FOR FISCAL YEAR 2006-07, THE CONTRACTOR SHALL MAKE A PAYMENT FROM THEIR HIGH-EMITTER ACCOUNT TO THE CLEAN SCREEN FUND CREATED IN SECTION 42-3-304 (19) (a) (II) IN AN AMOUNT OF THREE HUNDRED FIFTY THOUSAND DOLLARS. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL PROVIDE THE CONTRACTOR WITH AN ITEMIZED REPORT OF THE COSTS ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 06-1302, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY, IF AN ADDITIONAL AMOUNT IS NECESSARY TO COVER THE COSTS ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 06-1302.

(15) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY ENTER INTO A CONTRACT EXTENSION WITH THE CONTRACTOR AS NECESSARY IN ORDER TO IMPLEMENT HOUSE BILL 06-1302, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY. IN EVALUATING A CONTRACT EXTENSION, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE COMMISSION SHALL CONSIDER A REDUCTION IN THE FEES SET FORTH IN SECTION 42-3-304, C.R.S.

**SECTION 4.** 42-4-307.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**42-4-307.5. Clean screen authority - enterprise - revenue bonds.** (12) (a) THE CLEAN SCREEN AUTHORITY MAY CONTRACT WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND EXPEND MONEYS FROM THE CLEAN SCREEN FUND FOR THE COSTS ASSOCIATED WITH IMPLEMENTATION OF HOUSE BILL 06-1302, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IS AUTHORIZED TO EXPEND MONEYS PURSUANT TO SUCH CONTRACT, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, DURING THE FISCAL YEAR COMMENCING JULY 1, 2006.

(b) THIS SUBSECTION (12) IS REPEALED, EFFECTIVE JULY 1, 2008.

**SECTION 5.** Part 3 of article 4 of title 42, Colorado Revised Statutes, is

amended BY THE ADDITION OF A NEW SECTION to read:

**42-4-307.7. Vehicle emissions testing - remote sensing.** (1) ON OR BEFORE DECEMBER 31, 2006, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE CONTRACTOR SHALL DEVELOP A PLAN, SUBJECT TO APPROVAL BY THE COMMISSION, THAT SHALL PROVIDE FOR A PHASED INCREASE IN CLEAN SCREEN TESTING. THE PLAN SHALL PROVIDE FOR THE SUBSTANTIALLY INCREASED USE OF REMOTE SENSING DEVICES FOR THE IDENTIFICATION OF VEHICLES WHOSE EMISSIONS COMPLY WITH THE AIR QUALITY CRITERIA DETERMINED BY THE COMMISSION AND THOSE VEHICLES THAT EXCEED THE AIR QUALITY CRITERIA DETERMINED BY THE COMMISSION. THE COMMISSION SHALL USE BEST EFFORTS TO ELIMINATE THE REQUIREMENT FOR REGULAR EMISSIONS INSPECTIONS AND TO REPLACE THE REGULARLY SCHEDULED BASIC AND ENHANCED EMISSIONS TESTING PROGRAM WITH A HIGH EMITTER PROGRAM.

(2) IF MODEL YEAR EXEMPTIONS OR CLEAN SCREEN TESTING IS EXPANDED, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY REDUCE THE NUMBER OF LANES AT ENHANCED INSPECTION CENTERS OR THE NUMBER OF ENHANCED INSPECTION CENTERS IN THE PROGRAM AREA. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL CONSIDER SUCH REDUCTIONS WHEN ESTABLISHING OR ADJUSTING COMPENSATION PAID TO THE CONTRACTOR.

(3) THE COLORADO DEPARTMENT OF TRANSPORTATION SHALL WORK WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO IDENTIFY LOCATIONS THAT MAY ACCOMMODATE UNMANNED REMOTE SENSING DEVICES WITHOUT CAUSING A SAFETY HAZARD.

(4) THE COMMISSION SHALL EVALUATE OPTIONS FOR INCREASING THE NUMBER OF VEHICLES PASSING A TEST UNDER THE CLEAN SCREEN PROGRAM, INCLUDING, BUT NOT LIMITED TO:

(a) THE REDUCTION OF THE NUMBER OF REMOTE SENSING MEASUREMENTS PER VEHICLE;

(b) ADDITIONAL REMOTE SENSING DEVICES AND SITES;

(c) EXPANDED HOURS OF OPERATION; AND

(d) ADDITIONAL STAFFING.

(5) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL WORK WITH THE CONTRACTOR TO MINIMIZE FALSE TEST RESULTS AND SHALL TRACK AND REPORT TO THE COMMISSION ITS PROGRESS IN MINIMIZING FALSE TEST RESULTS ON OR BEFORE MARCH 31 OF EACH YEAR.

(6) THE COMMISSION SHALL DETERMINE THE CRITERIA USED FOR THE MEASUREMENT OF VEHICLE EMISSIONS NEEDED TO COMPLY WITH THE CLEAN SCREEN PROGRAM AND THE HIGH-EMITTER PROGRAM, WHICH CRITERIA SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE POLLUTANTS MEASURED, ACCEPTABLE LEVELS OF THE MEASURED POLLUTANTS, AND FAILURE RATES. CRITERIA ADOPTED BY THE COMMISSION FOR THE CLEAN SCREEN PROGRAM SHALL MEET ENVIRONMENTAL

## PROTECTION AGENCY REQUIREMENTS.

(7) VEHICLES IDENTIFIED AS EXCEEDING ACCEPTABLE EMISSION LIMITATIONS, AS DETERMINED BY THE COMMISSION PURSUANT TO SUBSECTION (6) OF THIS SECTION, SHALL BE REQUIRED TO REPORT TO AN ENHANCED INSPECTION CENTER OR OTHER APPROVED FACILITY WITHIN THIRTY DAYS AND SHALL BE SUBJECT TO AN APPROVED EMISSIONS TEST TO CONFIRM THAT THE VEHICLE HAS FAILED THE EMISSIONS TEST. THEREAFTER, THE OWNER OF THE VEHICLE SHALL HAVE THIRTY DAYS TO REPAIR AND TEST THE VEHICLE SUCCESSFULLY.

(8) THE COMMISSION SHALL ADOPT, BY RULE, EMISSIONS TEST METHODS TO CONFIRM THE IDENTIFICATION OF A HIGH-EMITTING VEHICLE THAT WAS PREVIOUSLY IDENTIFIED, BY REMOTE SENSING, AS A HIGH-EMITTING VEHICLE.

(9) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, VEHICLES OPERATING WITHIN THE PROGRAM AREA BUT REGISTERED OUTSIDE THE PROGRAM AREA THAT ARE REPEATEDLY DETECTED UNDER THE CLEAN SCREEN PROGRAM SHALL BE SUBJECT TO ENFORCEMENT UNDER A PROGRAM ADOPTED BY THE COMMISSION TO IDENTIFY VEHICLES THAT EXCEED ACCEPTABLE EMISSIONS LIMITATIONS.

(10) THE COMMISSION SHALL ADOPT, BY RULE, AN ENFORCEMENT PROGRAM TO IDENTIFY VEHICLES THAT REGULARLY OPERATE WITHIN THE PROGRAM AREA BUT ARE REGISTERED OUTSIDE THE PROGRAM AREA AND SHALL REQUIRE THEIR COMPLIANCE WITH ACCEPTABLE EMISSIONS LIMITATIONS DETERMINED BY THE COMMISSION.

(11) IF THE IDENTIFIED HIGH-EMITTING VEHICLE FAILS AN ENHANCED EMISSIONS TEST AT AN ENHANCED INSPECTION CENTER OR OTHER APPROVED TEST PURSUANT TO SUBSECTION (8) OF THIS SECTION, REPAIRS SHALL BE COMPLETED AND THE VEHICLE SHALL PASS A SUBSEQUENT APPROVED EMISSIONS TEST PURSUANT TO THIS PART 3 BEFORE THE VEHICLE MAY BE REGISTERED OR REREGISTERED.

(12) PHOTOGRAPHS OF A VEHICLE TAKEN BY A REMOTE SENSING DEVICE IN ORDER TO CAPTURE AN IMAGE OF A VEHICLE'S LICENSE PLATE SHALL BE LIMITED TO THE REAR OF THE VEHICLE. NO ATTEMPTS SHALL BE MADE BY A REMOTE SENSING DEVICE TO PHOTOGRAPH A VEHICLE'S DRIVER.

**SECTION 6.** 42-4-310 (1) (b) (II) (A), Colorado Revised Statutes, is amended to read:

**42-4-310. Periodic emissions control inspection required.**

(1) (b) (II) (A) Motor vehicle dealers shall purchase verification of emissions test forms for the sum of twenty-five cents per form from the department or persons authorized by the department to make such sales to be used only on new motor vehicles. No refund or credit shall be allowed for any unused verification of emissions test forms. New motor vehicles required under this section to have a verification of emissions test form shall be issued a certification of emissions compliance without inspection, which shall expire on the anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year or a later model year established by the commission pursuant to section 42-4-306 (8) (b). Prior to the expiration of such certification such vehicle shall PASS A CLEAN SCREEN TEST OR be inspected and a certification of emissions control shall

be obtained therefor.

**SECTION 7.** 42-4-311 (6), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**42-4-311. Operation of inspection and readjustment stations - inspection-only facilities - fleet inspection stations - motor vehicle dealer test facilities - enhanced inspection centers.** (6) (c) NOTWITHSTANDING PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (6), AT SUCH TIME THAT THE PLAN DEVELOPED PURSUANT TO SECTION 42-4-307.7 IS IMPLEMENTED, THE EMISSIONS INSPECTION FEE CHARGED PURSUANT TO THE CLEAN SCREEN PROGRAM SHALL NOT EXCEED NINE DOLLARS. SUCH FEE SHALL BE IN ACCORDANCE WITH SECTION 42-3-304 (19) (a) (I).

**SECTION 8.** 42-4-313 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

**42-4-313. Penalties.** (3) (h) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN OWNER OF A VEHICLE THAT HAS FAILED UNDER THE HIGH EMITTER PROGRAM IS IN VIOLATION OF THIS PART 3 AND SHALL BE NOTIFIED BY MAIL BY THE CONTRACTOR THAT HIS OR HER VEHICLE IS NOT IN COMPLIANCE. THE OWNER SHALL HAVE THIRTY DAYS TO REPAIR AND TEST THE VEHICLE SUCCESSFULLY.

(i) A VIOLATOR WHOSE VEHICLE FAILS TO COMPLY WITH EMISSION LIMITS ADOPTED BY THE COMMISSION PURSUANT TO THIS PART 3 SHALL BE FINED ONE HUNDRED DOLLARS PER VIOLATION.

(j) AFTER NINETY DAYS, REGISTRATION SHALL BE ADMINISTRATIVELY SUSPENDED ON A VEHICLE THAT REMAINS OUT OF COMPLIANCE WITH THIS PART 3. THE REGISTRATION SHALL NOT BE REINSTATED UNTIL THE VEHICLE OWNER PROVIDES PROOF OF COMPLIANCE WITH THIS PART 3 AND PAYS ANY APPLICABLE FINES.

**SECTION 9.** 42-4-316 (1), Colorado Revised Statutes, is amended to read:

**42-4-316. AIR program - demonstration of compliance with ambient air quality standards and transportation conformity.** (1) If the COMMISSION AND THE lead air quality planning agency of any portion of the program area ~~demonstrates to the commission~~ AGREE THAT IT HAS BEEN DEMONSTRATED that ~~such~~ ANY portion OF THE PROGRAM meets ambient air quality standards and transportation conformity requirements, ~~upon approval of such demonstration~~ IN COMPLIANCE WITH FEDERAL ACTS, the commission may specify that the AIR program will no longer apply in that portion of the program area.

**SECTION 10.** Part 3 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-4-316.5. Termination of vehicle emissions testing program.** THE COMMISSION SHALL HAVE THE AUTHORITY TO ELIMINATE ALL REQUIREMENTS FOR REGULARLY SCHEDULED BASIC OR ENHANCED EMISSIONS INSPECTIONS OF MOTOR VEHICLES. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 3 AND IF THE COMMISSION FINDS THAT THIS ACTION DOES NOT VIOLATE FEDERAL AIR QUALITY STANDARDS, THE VEHICLE EMISSIONS INSPECTION PROGRAM SET FORTH IN SECTIONS

42-4-301 TO 42-4-316 IS REPEALED, EFFECTIVE DECEMBER 31, 2010.

**SECTION 11.** 42-3-304 (19) (d), Colorado Revised Statutes, is amended to read:

**42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund - repeal.** (19) (d) ~~This subsection (19) is repealed, effective December 31, 2007.~~ Any moneys remaining in the clean screen fund ~~on December 31, 2007~~ UPON TERMINATION OF THE AIR PROGRAM shall revert to the AIR account established in paragraph (a) of subsection (18) of this section.

**SECTION 12.** 42-3-304 (19) (a) (I) and (19) (a) (II), Colorado Revised Statutes, are amended, and the said 42-3-304 (19) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund - repeal.** (19) (a) If the air quality control commission determines pursuant to section 42-4-306 (23) (b) to implement an expanded clean screen program in the enhanced emissions program area, on and after the specific dates determined by the commission for each of the following subparagraphs:

(I) In addition to any other fee imposed by this section, county clerks and recorders, acting as agents for the clean screen authority, shall collect at the time of registration an emissions inspection fee in an amount determined by section 42-4-311 (6) (a) OR, AFTER IMPLEMENTATION OF THE PLAN BY THE COMMISSION AS PRESCRIBED BY HOUSE BILL 06-1302, AS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY, IN ACCORDANCE WITH SECTION 42-4-311 (6) (c), on every motor vehicle that the department of revenue has determined from data provided by its contractor to have been clean screened; except that the motorist shall not be required to pay such emissions inspection fee if the county clerk and recorder determines that a valid certification of emissions compliance has already been issued for the vehicle being registered indicating that the vehicle passed the applicable emissions test at an enhanced inspection center, inspection and readjustment station, motor vehicle dealer test facility, or fleet inspection station.

(II) County clerks and recorders shall be entitled to retain three and one-third percent of the fee so collected to cover the clerks' expenses in the collection and remittance of such fee. County treasurers shall, no later than ten days after the last business day of each month, remit the remainder of such fee to the clean screen authority created in section 42-4-307.5. The clean screen authority shall transmit such fee to the state treasurer, who shall deposit the same in the clean screen fund, which fund is hereby created. The clean screen fund shall be a pass-through trust account to be held in trust solely for the purposes and the beneficiaries specified in this subsection (19). Moneys in the clean screen fund shall not constitute fiscal year spending of the state for purposes of section 20 of article X of the state constitution, and such moneys shall be deemed custodial funds that are not subject to appropriation by the general assembly. Interest earned from the deposit and investment of moneys in the clean screen fund shall be credited to the clean screen fund, and the clean screen authority may also expend interest earned on the deposit and investment of the clean screen fund to pay for its costs associated with the implementation of House Bill 01-1402, enacted at the first regular session of the

sixty-third general assembly. THE CLEAN SCREEN AUTHORITY MAY ALSO EXPEND INTEREST EARNED ON THE DEPOSIT AND INVESTMENT OF THE CLEAN SCREEN FUND TO PAY FOR ITS COSTS ASSOCIATED WITH THE IMPLEMENTATION OF HOUSE BILL 06-1302, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY.

(IV) THE COMMISSION SHALL ESTABLISH A PAY-UPON-REGISTRATION PROGRAM AS A PART OF THE PLAN TO SUBSTANTIALLY INCREASE THE USE OF CLEAN SCREEN TESTING PURSUANT TO SECTION 42-4-307.7 AND SHALL SET A DATE TO IMPLEMENT THE PAY-UPON-REGISTRATION PROGRAM. THE EMISSIONS INSPECTION FEE IMPOSED IN ACCORDANCE WITH THIS SUBSECTION (19) SHALL NOT EXCEED NINE DOLLARS ANNUALLY AND SHALL BE ASSESSED ON EVERY MOTOR VEHICLE IN THE PROGRAM AREA. THE COMMISSION SHALL HAVE THE AUTHORITY TO REDUCE, BUT NOT INCREASE, EMISSIONS INSPECTION FEES. THE FEE, IN ADDITION TO ANY OTHER FEE IMPOSED BY THIS SECTION, SHALL BE COLLECTED BY THE COUNTY CLERK AND RECORDER, ACTING AS AGENT FOR THE CLEAN SCREEN AUTHORITY, AT THE TIME OF REGISTRATION EACH YEAR. THE CONTRACTOR SHALL BE PAID ON THE BASIS OF THE NUMBER OF VEHICLES INSPECTED AT ENHANCED INSPECTION CENTERS, WHICH PAYMENT SHALL INCLUDE PAYMENT FOR DUPLICATE INSPECTIONS WHEN REQUIRED FOR EMISSIONS COMPLIANCE VERIFICATION. THE CONTRACTOR SHALL ALSO BE PAID BASED ON THE NUMBER OF UNIQUE VEHICLES TESTED BY REMOTE SENSING FOR THE HIGH EMITTER PROGRAM. THE CONTRACTOR SHALL NOT BE PAID FOR VEHICLE REMOTE SENSING TESTS MORE THAN ONCE FOR THE SAME VEHICLE IN ANY TWELVE-MONTH VEHICLE REGISTRATION PERIOD, BUT SHALL FURNISH DUPLICATE VEHICLE TEST DATA TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

**SECTION 13. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the clean screen fund created in section 42-3-304 (19) (a) (II), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2006, the sum of two hundred fifty thousand dollars (\$250,000) and 1.5 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from moneys received from the clean screen authority pursuant to section 42-4-307.5 (12), Colorado Revised Statutes.

**SECTION 14. Effective date.** This act shall take effect July 1, 2006.

**SECTION 15. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 2006