

CHAPTER 220

HEALTH AND ENVIRONMENT

SENATE BILL 99-117

BY SENATORS Dennis, Musgrave, Perlmutter, Sullivant, and Weddig;
also REPRESENTATIVES Taylor, May, and Paschall.

AN ACT

CONCERNING THE REMOVAL OF THE CLEAN VEHICLE FLEET PROGRAM FROM THE STATE IMPLEMENTATION PLAN FOR CARBON MONOXIDE, AND, IN CONNECTION THEREWITH, OPTING OUT OF THE FEDERAL PROGRAM AND MODIFYING PROGRAM COMPLIANCE CREDITS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 25-7-106.8 (1) (b), (2), and (3), Colorado Revised Statutes, are amended, and the said 25-7-106.8 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

25-7-106.8. Colorado clean vehicle fleet program. (1) As used in this section, unless the context otherwise requires:

(b) "Clean fuel vehicle" means a vehicle in a class or category of vehicles, operating on an alternative fuel as defined in paragraph (a) of this subsection (1), which has been certified to meet for any model year the clean fuel vehicle standards in the federal act, as may be amended from time to time, applicable for that model year to clean fuel vehicles in that class or category. TO QUALIFY UNDER THIS PARAGRAPH (b), SUCH CERTIFICATION MUST BE ISSUED BY THE FEDERAL GOVERNMENT OR BY A STATE AUTHORIZED UNDER THE FEDERAL ACT TO CERTIFY VEHICLES TO TAILPIPE STANDARDS THAT ARE AT LEAST AS STRINGENT AS THE CLEAN FUEL VEHICLE STANDARDS IN THE FEDERAL ACT.

(2) There is hereby created under the air quality control commission within the department of public health and environment the Colorado clean vehicle fleet program, which is established ~~for the purpose of implementing the alternative fuel fleet program mandated by Title I, Part D, and Title II, Part C, of the federal act, as may be amended from time to time, to reduce carbon monoxide emissions and brown~~

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

~~cloud pollutants and to provide economic and energy security benefits to the state of Colorado from the use of alternative fuels~~ AS A MATTER OF STATEWIDE AIR QUALITY CONCERN TO REDUCE CARBON MONOXIDE, OZONE AND OZONE PRECURSORS, AND PARTICULATE MATTER EMISSIONS FROM MOTOR VEHICLES FROM THE USE OF ALTERNATIVE FUELS.

(3) The commission is directed to promulgate rules ~~and regulations which are necessary to adopt a state implementation plan revision as required by Title I, Part D, and Title II, Part C, of the federal act, as may be amended from time to time. The rules and regulations promulgated by the commission shall comply with the provisions of the federal regulations promulgated pursuant to Title I, Part D, and Title II, Part C, of the federal act, as amended. Such regulations shall require that a specified percentage of all covered fleet vehicles in model year 1998 and thereafter purchased by each covered fleet operator in the Denver-Boulder nonattainment area shall be clean fuel vehicles and shall use alternative fuels when operating in such area~~ TO IMPLEMENT THE COLORADO CLEAN VEHICLE FLEET PROGRAM. SUCH RULES:

(a) SHALL REQUIRE THAT A SPECIFIED PERCENTAGE OF ALL COVERED FLEET VEHICLES IN MODEL YEAR 1999 (BEGINNING SEPTEMBER 1, 1998) AND THEREAFTER PURCHASED BY EACH COVERED FLEET OPERATOR LOCATED WITHIN THE SEPTEMBER 1, 1998, BOUNDARIES OF THE DENVER-BOULDER CARBON MONOXIDE NONATTAINMENT AREA SHALL BE CLEAN FUEL VEHICLES;

(b) SHALL REQUIRE EVERY COVERED FLEET OPERATOR, WHEN OPERATING WITHIN THE BOUNDARIES OF THE DENVER-BOULDER CARBON MONOXIDE NONATTAINMENT AREA ON AND AFTER SEPTEMBER 1, 1998, TO USE ONLY FUELS FOR WHICH THE CLEAN FUEL VEHICLE WAS CERTIFIED AS A CLEAN FUEL VEHICLE. VEHICLES OWNED BY THE GOVERNMENT OF THE UNITED STATES AND DOMICILED WITHIN SUCH AREA ARE COVERED BY THE PROGRAM WHETHER OR NOT THEY ARE REGISTERED WITH THE DEPARTMENT OF REVENUE.

(c) SHALL ADOPT A STATE-ONLY CLEAN FUEL FLEET PROGRAM BASED ON THE REQUIREMENTS UNDER TITLE I, PART D, AND TITLE II, PART C, OF THE FEDERAL ACT, AS MAY BE AMENDED FROM TIME TO TIME, SUBJECT TO ADJUSTMENT AS NECESSARY TO ADAPT TO CIRCUMSTANCES IN THE STATE OF COLORADO BUT IN NO EVENT MORE STRINGENT THAN THE FEDERAL CLEAN FUEL FLEET PROGRAM REQUIREMENTS, ALL IN ORDER TO REDUCE CARBON MONOXIDE, OZONE AND OZONE PRECURSORS, AND PARTICULATE MATTER EMISSIONS FROM MOTOR VEHICLES;

(d) MAY CONTAIN VEHICLE-SPECIFIC WAIVERS FROM THE REQUIREMENTS OF THE CLEAN VEHICLE FLEET PROGRAM IN ORDER TO PROVIDE RELIEF TO COVERED FLEETS IN SPECIFIC CASES OF HARDSHIP; EXCEPT THAT ANY SUCH WAIVER SHALL APPLY ONLY TO A SPECIFIC VEHICLE AND ONLY IN APPROPRIATE, NARROW, AND LIMITED CIRCUMSTANCES. THE BURDEN OF PROOF TO OBTAIN A WAIVER SHALL REST WITH THE COVERED FLEET OPERATOR.

(6) THE CLEAN VEHICLE FLEET PROGRAM SHALL NOT BE A PART OF THE COLORADO CARBON MONOXIDE STATE IMPLEMENTATION PLAN. THE GOVERNOR IS REQUESTED TO WITHDRAW ANY PENDING REQUEST TO THE FEDERAL GOVERNMENT FOR APPROVAL OF THE CLEAN VEHICLE FLEET PROGRAM AS A PART OF THE COLORADO CARBON MONOXIDE STATE IMPLEMENTATION PLAN. THE COMMISSION SHALL TAKE ALL STEPS

NECESSARY AND APPROPRIATE SO THAT COLORADO MAY OPT OUT OF THE FEDERAL CLEAN FUEL FLEET PROGRAM IN TITLE I, PART D, AND TITLE II, PART C, OF THE FEDERAL ACT, FOR CARBON MONOXIDE STATE IMPLEMENTATION PLAN PURPOSES AND TO ALLOW REASONABLE FLEXIBILITY IN ITS RULES TO ADDRESS CIRCUMSTANCES IN COLORADO. THE COMMISSION IS DIRECTED TO IDENTIFY EMISSION REDUCTIONS COMPARABLE TO THOSE REQUIRED BY THE FEDERAL CLEAN FUEL FLEET PROGRAM TO SUBSTITUTE FOR THE FEDERAL CLEAN FUEL FLEET PROGRAM IN TITLE I, PART D, AND TITLE II, PART C, OF THE FEDERAL ACT, AND THE COMMISSION SHALL SUBMIT AS NECESSARY SUCH EMISSION REDUCTIONS TO THE FEDERAL GOVERNMENT FOR CARBON MONOXIDE STATE IMPLEMENTATION PLAN APPROVAL.

(7) (a) THE CLEAN VEHICLE FLEET PROGRAM SHALL CONTAIN A PROGRAM COMPLIANCE CREDIT SYSTEM. SUCH SYSTEM SHALL BE BASED UPON THE FEDERAL CLEAN FUEL FLEET PROGRAM COMPLIANCE CREDIT SYSTEM, BUT MAY BE ADJUSTED TO FIT CIRCUMSTANCES IN THE STATE OF COLORADO. IN ADDITION, TO PROMOTE FEDERAL ENERGY SECURITY, A PARTIAL PROGRAM COMPLIANCE CREDIT EQUAL TO ONE-FIFTH OF A PROGRAM COMPLIANCE CREDIT PER VEHICLE PURCHASED OR CONVERTED, SHALL BE AWARDED, UPON APPLICATION, TO A COVERED FLEET THAT PURCHASED OR CONVERTED VEHICLES BETWEEN JANUARY 1, 1992, AND AUGUST 31, 1995, IN ORDER TO OPERATE ON NATURAL GAS, PROPANE, ELECTRICITY, OR ALCOHOL, INCLUDING ANY MIXTURE CONTAINING EIGHTY-FIVE PERCENT OR MORE BY VOLUME OF ALCOHOL WITH GASOLINE OR OTHER FUELS.

(b) TO OBTAIN PARTIAL PROGRAM COMPLIANCE CREDIT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7) FOR THE PURCHASE OR CONVERSION OF A VEHICLE THAT IS NOT A CLEAN FUEL VEHICLE, THE COVERED FLEET OPERATOR SHALL BE REQUIRED TO APPLY FOR SUCH CREDIT ON OR BEFORE DECEMBER 31, 2000, AND TO DEMONSTRATE THAT:

(I) THE VEHICLE REMAINED IN OPERATION IN THE COVERED FLEET AS OF SEPTEMBER 1, 1998;

(II) THE VEHICLE HAS BEEN USED CONTINUOUSLY, ALTHOUGH NOT NECESSARILY EXCLUSIVELY, IN THE DENVER-BOULDER CARBON MONOXIDE NONATTAINMENT AREA; AND

(III) THE VEHICLE HAS OPERATED ROUTINELY ON A FUEL DESCRIBED IN THIS SUBSECTION (7) WHILE IN THE DENVER-BOULDER CARBON MONOXIDE NONATTAINMENT AREA.

(c) THE PARTIAL PROGRAM COMPLIANCE CREDIT AWARDED UNDER THIS SUBSECTION (7) MAY ONLY BE AWARDED TO AND USED BY THE COVERED FLEET THAT ORIGINALLY PURCHASED OR CONVERTED THE VEHICLE FOR WHICH THE PARTIAL PROGRAM COMPLIANCE CREDIT IS AWARDED. NO COVERED FLEET MAY USE A TOTAL OF MORE THAN FIFTY PARTIAL PROGRAM COMPLIANCE CREDITS UNDER THIS SUBSECTION (7), CORRESPONDING TO FULL PROGRAM COMPLIANCE CREDIT UNDER THE CLEAN VEHICLE FLEET PROGRAM FOR TEN CLEAN FUEL VEHICLES.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the automobile inspection and readjustment account of the highway users tax fund not otherwise appropriated, to the

department of public health and environment, for the fiscal year beginning July 1, 1999, the sum of fifty-one thousand six hundred seventy-five dollars (\$51,675) cash funds exempt, or so much thereof as may be necessary, for the implementation of this act.

SECTION 3. 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 24, 1999