

CHAPTER 62

HEALTH AND ENVIRONMENT

SENATE BILL 03-066

BY SENATOR(S) Takis, Cairns, Chlouber, Fitz-Gerald, Hanna, Jones, Lamborn, May R., Nichol, Phillips, Sandoval, Tapia, and Taylor;
also REPRESENTATIVE(S) McCluskey and Stafford.

AN ACT

CONCERNING THE REPEAL OF THE MOTOR VEHICLE AIR CONDITIONING FEE, AND, IN CONNECTION THEREWITH, REPEALING THE OZONE PROTECTION FUND.

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

SECTION 1. Repeal. 42-3-134 (29), Colorado Revised Statutes, is repealed as follows:

~~42-3-134. Registration fees - passenger and passenger-mile taxes - fee schedule for years of TABOR surplus revenue - refund - clean screen fund - repeal. (29) Effective January 1, 1993, in addition to any other fees imposed by this section, there shall be collected, at the time of sale of the motor vehicle, a fee of two dollars on every new motor vehicle with an air conditioner sold in the state of Colorado. For the purposes of this subsection (29), a "motor vehicle air conditioner" means any air conditioner designed for installation in a motor vehicle which uses as a refrigerant any class I or class II ozone depleting compound as defined pursuant to section 25-7-103 (18.5), C.R.S. Such fees shall be remitted on a quarterly basis by the motor vehicle dealer to the executive director of the department of revenue, and shall be accompanied by forms provided by the department of revenue. The executive director of the department of revenue shall transmit said fees to the state treasurer, who shall credit such moneys to the ozone protection fund created in section 25-7-135, C.R.S.~~

SECTION 2. 25-7-135, Colorado Revised Statutes, is amended to read:

25-7-135. Ozone protection fund created. (1) There is hereby created in the state treasury an ozone protection fund, which shall consist of all fees collected pursuant to subsection (2) of this section. ~~Any moneys in such fund shall be~~

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

appropriated annually by the general assembly to the department of public health and environment to cover the direct and indirect costs of adopting, implementing, and enforcing regulations promulgated in accordance with section 25-7-105 (11). In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the ozone protection fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

~~(2) (a) On and after January 1, 1993, there shall be assessed upon the sale of any new automobile within the state of Colorado with an air conditioner that uses an ozone depleting compound a fee in the amount of two dollars. Said fee shall be collected by the motor vehicle dealer at the time of sale of the motor vehicle. In accordance with regulations promulgated by the air quality control commission, all proceeds from the collection of such fee shall be remitted on a quarterly basis by the motor vehicle dealer to the executive director of the department of revenue and shall be accompanied by forms provided by the department of revenue. The executive director of the department of revenue shall transmit said fees to the state treasurer, who shall credit such moneys to the ozone protection fund created in subsection (1) of this section.~~

~~(b) Notwithstanding the amount specified for the fee in this subsection (2), the commission by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commission by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.~~

SECTION 3. Repeal. 25-7-105 (11) (d), Colorado Revised Statutes, is repealed as follows:

25-7-105. Duties of commission. (11) The commission shall promulgate regulations concerning CFC's and ozone depleting compounds as follows:

~~(d) Regulations which are necessary for the imposition and collection of a fee on the sale of any new automobile with an air conditioner which uses any ozone depleting compound pursuant to section 25-7-135;~~

SECTION 4. 25-7-122 (1) (b), Colorado Revised Statutes, is amended to read:

25-7-122. Civil penalties. (1) Upon application of the division, penalties as determined under this article may be collected by the division by action instituted in the district court for the district in which is located the air pollution source affected in accordance with the following provisions:

(b) Any person who violates any requirement or prohibition of an applicable emission control regulation of the commission, the state implementation plan, a construction permit, any provision for the prevention of significant deterioration under part 2 of this article, any provision related to attainment under part 3 of this article, or any provision of section 25-7-105, 25-7-106, 25-7-106.3, 25-7-106.8, 25-7-106.9,

25-7-108, 25-7-109, 25-7-111, 25-7-112, 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, ~~25-7-135~~, 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406, 42-4-407, 42-4-409, or 42-4-410, C.R.S., shall be subject to a civil penalty of not more than fifteen thousand dollars per day for each day of such violation; except that there shall be no civil penalties assessed or collected against persons who violate emission regulations promulgated by the commission for the control of odor until a compliance order issued pursuant to section 25-7-115 and ordering compliance with the odor regulation has been violated.

SECTION 5. 25-7-122.1 (1) (a) and (1) (b), Colorado Revised Statutes, are amended to read:

25-7-122.1. Criminal penalties. (1) General provisions. (a) Whenever the division has reason to believe that a person has knowingly, as defined in section 18-1-501 (6), C.R.S., violated any requirement or prohibition of an applicable emission control regulation of the commission, state implementation plan, permit required under this article, or any provision for the prevention of significant deterioration under part 2 of this article, any provision related to attainment under part 3 of this article, or any provision of section 25-7-105, 25-7-106, 25-7-106.3, 25-7-106.8, 25-7-106.9, 25-7-108, 25-7-109, 25-7-111, 25-7-112, 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, ~~25-7-135~~, 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406, 42-4-407, 42-4-409, or 42-4-410, C.R.S., the division may request either the attorney general or the district attorney for the district in which the alleged violation occurs to pursue criminal penalties under this section.

(b) Except for those violations identified in paragraph (c) of this subsection (1) and subsections (2) and (3) of this section, any person who knowingly, as defined in section 18-1-501 (6), C.R.S., violates any requirement or prohibition of an applicable emission control regulation of the commission, state implementation plan, permit required under this article, or any provision for the prevention of significant deterioration under part 2 of this article, any provision related to attainment under part 3 of this article, or any provision of section 25-7-105, 25-7-106, 25-7-106.3, 25-7-106.8, 25-7-106.9, 25-7-108, 25-7-109, 25-7-109.6, 25-7-111, 25-7-112, 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, ~~25-7-135~~, 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405, 42-4-406, 42-4-407, 42-4-409, or 42-4-410, C.R.S., is guilty of a misdemeanor, and upon conviction thereof, may be punished by a fine of not more than twenty-five thousand dollars per day for each day of violation. Upon a second conviction for a violation of this paragraph (b) within two years, the maximum punishment shall be doubled.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to the collection of fees on or after said date.

SECTION 7. 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: March 20, 2003