

CHAPTER 115**(SJR 3)**

A JOINT RESOLUTION relating to vehicle emissions control testing.

WHEREAS, in various areas of the Commonwealth vehicle emissions testing (VET) programs have operated since 1984; and

WHEREAS, since 1984, the regulation of pollutants has tightened and technological controls on a variety of air emission sources, including vehicles, have improved; and

WHEREAS, gasoline formulations have changed to reduce harmful components; and

WHEREAS, approximately 98% of vehicles tested pass the first time tested for emissions; and

WHEREAS, VET programs are seen by many citizens as an imposition, unnecessary, and ineffective to achieve the program's purpose; and

WHEREAS, federal law allows various approaches to attaining air quality; and

WHEREAS, KRS 224.20-715 provides that "The cabinet shall administer or provide for a comprehensive vehicle emission control program which may require the annual inspection of vehicles in counties designated by federal Environmental Protection Agency regulation to be nonattainment for ozone, carbon monoxide, or nitrogen dioxide if a program is necessary or prudent to meet federal air quality standards and if no federal Environmental Protection Agency approved program is being operated by an air pollution control district, county fiscal court, or combination of county fiscal courts"; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet by administrative regulation 401 KAR 65:010 requires the establishment of VET programs in "Vehicle Emission Control Areas," which are defined in that administrative regulation as counties in which the entire county has been designated "moderate ozone nonattainment"; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet's administrative regulation 401 KAR 65:010 also provides that the VET programs established pursuant to the administrative regulation shall continue upon redesignation of the program areas to "attainment" for ozone; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet's "Northern Kentucky Emissions Check" vehicle emissions testing program is currently operating in counties which are no longer designated "moderate ozone nonattainment"; and

WHEREAS, the Commonwealth's only other VET program operated in an area that is also no longer in nonattainment status and has been eliminated; and

WHEREAS, the Finance and Administration Cabinet has entered into a 10-year price contract, PCT NO.: BP010138, for emissions testing related to the Northern Kentucky Emissions Check program; and

WHEREAS, that contract provides for termination, with 90 days' notice, of the contract by either party at any time due to termination of the vehicle emission control program for any of the subject counties, or due to federal or legislative changes or court decisions, or for other reasons;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Natural Resources and Environmental Protection Cabinet is directed to submit to the United States Environmental Protection Agency a revision of the State Implementation Plan for the 1-hour ozone standard that would remove the vehicle emissions testing program provided for in 401 KAR 65:010 in the area served by the Northern Kentucky Emissions Check testing program not later than August 1, 2004.

Section 2. It should be further stipulated that the Commonwealth of Kentucky will determine the best methods to meet and exceed any Clean Air Act standards now and in the future. Furthermore, the Commonwealth of Kentucky, and any and all cabinets so charged with meeting such standards, will not permit nor allow punitive actions to be taken against the Commonwealth's citizens, business, or lands so long as the Commonwealth can show its methods to be improving the air quality to achieve or exceed federal standards within a reasonable time frame.

Section 3. Upon approval of the State Implementation Plan revision, the Natural Resources and Environmental Protection Cabinet and the Transportation Cabinet are directed to take any and all measures necessary to ensure that no motor vehicle owner whose vehicle is subject to testing by the Northern Kentucky Emissions Check testing program is refused registration reinstatement, denied vehicle registration, or subjected to registration revocation after cancellation of the program for failure to comply with Northern Kentucky Emissions Check program requirements prior to its cancellation.

Section 4. In the event that the area served by the Northern Kentucky Emissions Check testing program is redesignated as nonattainment under the 8-hour ozone or 2.5 fine particulate standards, the Natural Resources and Environmental Protection Cabinet is directed to formulate a State Implementation Plan for these standards that does not rely upon a vehicle emissions testing program, unless the same is required by law or necessary for the approval of the State Implementation Plan. The final decision in this regard remains with the Secretary of the Natural Resources and Environmental Protection Cabinet.

Section 5. The Natural Resources and Environmental Protection Cabinet is directed to provide technical assistance, if requested, to the Louisville Metro Air Pollution Control District to find compensating reductions in emissions by the United States Environmental Protection Agency, so that the State Implementation Plan for these standards does not rely upon a vehicle emissions testing program, unless the same is required by law or necessary for the approval of the State Implementation Plan.

Approved April 9, 2004