



SPONSOR: Rep. Ramone & Sen. Wilson  
Reps. Collins, Yearick; Sen. Pettyjohn

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 323

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLE EMISSIONS TESTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Add a new Section to Title 7 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 6710 Procedure for a failed On-Board Diagnostic test.

4           (a) Definitions.

5                     (1) “Curb idle test” as used in this section shall mean the test used to analyze exhaust gas concentrations  
6                     using an exhaust probe.

7                     (2) “Department of Natural Resources and Environmental Control Certified emission repair technician”  
8                     as used in this section shall mean an automotive repair technician certified by the National Institute for  
9                     Automotive Service Excellence who has received an ASE L1 “Advanced Engine Performance Specialist Test”  
10                    certificate or an equivalent certificate from a program approved by the Department of Natural Resources and  
11                    Environmental Control and has been certified by the Department of Natural Resources and Environmental Control.

12                    (3) “Evaporative System Integrity test” as used in this section shall mean the test used to measure the  
13                    pressure of a vehicle’s Evaporative Emissions System.

14                    (4) “Malfunction Indicator Lamp” as used in this section shall mean the dashboard light on a vehicle that  
15                    when illuminated indicates an emission control device is not working to the manufacturer’s specifications. Also  
16                    known as the check engine light.

17                    (5) “Motor vehicle technician” as used in this section shall mean a person who has completed an  
18                    approved emissions inspection equipment training program and is employed or under contract with the State of  
19                    Delaware.

20                    (6) “On-board diagnostics” as used in this section shall mean a system of vehicle component and  
21                    condition monitors controlled by a central, on-board computer designed to signal the motorist when the conditions  
22                    exist which could lead to a vehicle’s exceeding its certification standards by 1.5 times the standard.

(7) “On-board diagnostics trouble codes” as used in this section shall mean a code that provides information on an On-Board Diagnostic equipped motor vehicle’s emission control system and aid in identifying system malfunctions.

(8) “Two-speed idle test” as used in this section shall mean the test used to measure exhaust emissions at two different engine speeds.

(b) All motor vehicles subject to On-Board Diagnostic tests by the Department of Natural Resources and Environmental Control, shall be subject to the following procedure upon failure of an On-Board Diagnostic test at a Division of Motor Vehicles’ inspection facility:

(1) A vehicle which fails the On-Board Diagnostic test shall be immediately retested. Upon failure of a retest, the vehicle shall fail the emissions inspection. Upon failure of the emissions inspection, the motor vehicle technician shall inform the vehicle owner of the following procedure and offer to the vehicle owner the Division of Motor Vehicles’ list of Department of Natural Resources and Environmental Control certified emissions repair technicians.

(2) The owner of a vehicle which has failed a Division of Motor Vehicles’ emissions inspection as the result of a failed On-Board Diagnostic test may have a Department of Natural Resources and Environmental Control certified emissions repair technician examine the vehicle to determine if the On-Board Diagnostic trouble code which caused the failure will not cause emissions to expel from the vehicle at a rate above the manufacturers designed thresholds or may cause emissions to expel from the vehicle at a rate above the manufacturers designed thresholds or will cause emissions to expel from the vehicle at a rate above the manufacturers designed thresholds.

a. The Department of Natural Resources and Environmental Control certified emission repair technician shall issue to the vehicle owner written documentation stating that the vehicle qualifies for a waiver, to be presented to the Division of Motor Vehicles, if the technician determines that emissions will not expel from the vehicle at a rate above the manufacturers designed thresholds.

b. If the Department of Natural Resources and Environmental Control certified emission repair technician determines that the vehicle may expel emissions above the manufacturer’s designed thresholds, the technician may issue to the vehicle owner written documentation requiring the Division of Motor Vehicles to conduct one or more of three alternative tests including a curb idle test, a two-speed idle test, or an evaporative system integrity test as determined by the technician to be the most appropriate, in lieu of an On-Board Diagnostic test. If the vehicle passes the technician’s alternative testing, the vehicle shall pass the emissions portion of the Division of Motor Vehicles inspection.

53                    c. If the Department of Natural Resources and Environmental Control certified emission repair  
54                    technician determines that the vehicle will expel emissions exceeding the manufacturer's design thresholds,  
55                    the technician shall inform the owner that the vehicle will not pass the Division of Motor Vehicles' emission  
56                    inspection in its current condition.

57                    (3) The procedure established under subsection (b) of this section shall not apply to vehicles in which the  
58                    On Board Diagnostic system is not in a readiness state for testing.

59                    (4) The Division of Motor Vehicles or the Department of Natural Resources and Environmental Control  
60                    may issue regulations allowing a vehicle to pass an emissions inspection after the vehicle owner has spent a certain  
61                    dollar amount to correct the problem which caused the emission failure and they may also issue regulations  
62                    regarding the emission criterion to determine what constitutes an emissions inspection failure as long as the  
63                    regulations are not more limiting than federal regulations or the vehicle manufacturer's specifications.

#### SYNOPSIS

This Act allows the owner of a vehicle which has a "check engine" light illuminated to be able to pass the Division of Motor Vehicles' (DMV) On-board Diagnostic (OBD) test emission inspection if a Department of Natural Resources and Environmental Control (DNREC) certified emissions repair technician determines that the vehicle is operating within the manufacturer's designed emission thresholds. If the DNREC technician cannot determine whether the vehicle will operate within the required thresholds, the technician may issue documentation to the vehicle owner which will require the DMV to disregard the OBD test and use an alternative test to determine if the vehicle will pass the emissions portion of the inspection. Because not all "check engine" lights relate to an emission problem, this bill will prevent unnecessary costly repairs while still maintaining the integrity of the emissions inspection process by using alternative tests when prudent.