

SB

28

HFIN

FILE



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

**Sectional Analysis
for
CS for Senate Bill 28 (Fin)**

Section #1 - Requires an additional I/M inspection and maintenance certificate in order to transfer the title of a vehicle if

- 1) the transferee resides in an I/M inspection area.
- 2) the motor vehicle was manufactured in 1987 or earlier.
- 3) the motor vehicle would be subject to an emissions inspection and maintenance program.
- 4) the motor vehicle had not been inspected for emissions or the existing emissions inspection certificate is more than 12 months old.

Section #2 - Waives the additional fee of \$10 for people who have their motor vehicle registration renewed at a emission inspection station.

Section #3 - Increases the fee collected by Division of Motor Vehicles (DMV) for vehicles required to be inspected under an emission control program from \$1 to \$2. This increase would offset the loss of revenue DMV would incur should biennial testing be implemented.

Section #4 & 5 - Requires that emission inspections be biennial rather than annual and also provides an enforcement provision that would fine owners of motor vehicles \$200 if they are found guilty of operating their vehicle without a current and valid I/M certificate or sticker. There is also intent language that would allow the Department of Environmental Conservation (DEC) to appropriate the monies collected from these fines for promotion of air quality control programs and enforcement procedures in municipalities.

Section #6 - Provides for an effective date of July 1, 1995 allowing DEC to begin enforcement of the infractions set out in sections 4 & 5 of the bill.

Section #7 - Provides for an effective date of July 1, 1996 which would allow DMV and DEC adequate time to implement the changes incorporated in this bill.

DD/ija

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-5571

MEMBER: Senate Finance Committee • Senate State Affairs Committee

Produced in House



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement for Senate Bill 28 An Act to allow biennial motor vehicle emission inspection testing

Senate Bill 28 would allow automobile emission inspection tests to be biennial rather than annual saving thousands of Alaskans both time and money. SB 28 gives the Department of Environmental Conservation (DEC) some additional emission inspection authority with which the DEC believes they can obtain approval for biennial testing from the U.S. Environmental Protection Agency (EPA). The bill also waives the additional fee of \$10 for people who have their motor vehicle registration renewed at a emission inspection station.

EPA has dictated that the Municipality of Anchorage (MOA) and the Fairbanks North Star Borough (FNSB) attain compliance with National Ambient Air Quality Standard. The MOA and FNSB have developed I/M programs designed to meet the minimum performance standard established by EPA. EPA must approve each of their I/M programs annually.

EPA provides a motor vehicle emissions model which contains certain guidelines and steps that demonstrate ways a community can achieve the National Ambient Air Quality Standard. If biennial testing is implemented, other steps or restrictions may be required by EPA in order to attain the Ambient Air Quality Standard.

If biennial I/M testing is implemented, SB 28 would require an I/M inspection certificate in order to transfer the title of the vehicle. This additional requirement applies if the transferee resides in an I/M inspection area, if the motor vehicle was manufactured in 1987 or earlier, if the motor vehicle is subject to an emissions inspection maintenance program, and if the motor vehicle had not been inspected for emissions or the existing inspection certificate is more than 12 months old.

Persons operating motor vehicles in an I/M containment area without a current valid emissions inspection and maintenance certificate would face a stiffer penalty under SB 28. This infraction would only apply to those vehicles who are subject to an emissions inspection and maintenance program. DEC would begin enforcement of this infraction on July 1, 1995. There is intent language that would allow DEC to appropriate the monies collected from these fines to promote air quality control programs in municipalities.

These additional provisions were added to allow the MOA and FNSB to achieve the minimum performance standard as established by EPA for a basic I/M program.

The Division of Motor Vehicles and DEC support SB 28.

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MEMBER: Senate Finance Committee • Senate State Affairs Committee

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 2, 1995

FURTHER REFERRALS:

Date of Committee Action: 5/4/95

The FINANCE Committee considered:

CSSB 28(FIN)(title am)

CS FOR SENATE BILL NO. 28(FIN)(title am)

MOTOR VEHICLE REG FEE/EMISS'N INSPECTIONS

"An Act requiring emissions inspection upon certain transfers of motor vehicle ownership; relating to fees for registration not conducted at a motor vehicle emissions inspections station and fees for motor vehicle emissions control programs; limiting motor vehicle emissions inspection to not more than once every two years and imposing a penalty for operating a motor vehicle in violation of emissions requirements; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee
 [] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal note(s) _____

[x] fiscal note(s) DEC 4/19/95
DPS 4/29/95

[] zero fiscal note(s) _____

[] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Edna Mulder</u>			X	
<u>Terra Martin</u>	X			
<u>Lisa Kohring</u>			X	
<u>Kelly O</u>	✓			
<u>Gene Theriault</u>			X	
<u>Jay Brown</u>	✓			

ACTING CHAIR'S SIGNATURE Edna Mulder

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: CSSB 28(FIN)

Revision Date: 4/28/95 Dept. Affected: Public Safety
 Title: An Act repealing an additional fee for motor BRU: Motor Vehicles
vehicle registration not conducted by mail... Component: Field Services
 Sponsor: Senator Donley
 Requestor: S. FIN. COMPONENT SERIAL NO. 0502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	36.1	36.1	36.1	36.1	36.1	36.1
TRAVEL						
CONTRACTUAL	12.7	1.5	1.5	1.5	1.5	1.5
SUPPLIES						
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	58.8	37.6	37.6	37.6	37.6	37.6

CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
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CHANGE IN REVENUES (1005)	Revenue Code					
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FUNDING: (Thousands of Dollars)

*002 Federal Receipts						
*003 GF Match						
*004 GF	58.8	37.6	37.6	37.6	37.6	37.6
*005 GF/Program Receipts						
*006 GF/MHTIA						
Other						
TOTAL	58.8	37.6	37.6	37.6	37.6	37.6

Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached

Prepared By: Juanita M Hensley Phone: 269-5559
 Division: Motor Vehicles Date: 4/28/95
 Approved by Commissioner: *Ronald L. Otte* Date: _____
 Agency: Ronald L. Otte, Dept. of Public Safety

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Analysis

In the emission inspection areas of Anchorage and Fairbanks there were 40,000 ownership changes in 1993 and 30,000 in 1994. For this analysis the average figure of 35,000 ownership changes will be used. This is the total number of vehicles that must be checked to see if they meet the requirement of having an additional I/M inspection at change of ownership. The DMV employee must determine if the vehicle meets the general age and weight criteria for inspections, whether the vehicle is 1987 model or older, and whether the vehicle has had an inspection within the last year. This checking will increase the average time for each transaction because only a portion of it can be automated. Additional time will be required to explain the requirements to owners and for the second visit required by those who do not meet the requirements on the first visit.

Since the circumstances vary so much it is not practical to quantify each individual transaction but it is estimated that this additional work will increase the overall workload by 1% so DMV will increase staffing by 1% or 1 PFT. The cost detail for the one PFT is as follows:

1 Motor Vehicle Rep I/II	\$36.1
CP costs for 1 AFSIN terminal	\$ 5
Equipment, 1 computer workstation	\$10.0
150 Hours of Contract Programming @ \$75 Hr..(One-time costs)	\$11.2
Data center charge for on line storage	\$ 1.0
Total	\$59.9

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB-28(s)

Revision Date: 14-Apr-95
Title: Motor Vehicle Registration Fee/Emission Inspection
Sponsor: Senator Donley
Requestor: (S)TRA

Department Affected: Environmental Conservation
BRU: Environmental Quality
Component: Air Quality

COMPONENT SERIAL NO. 1428

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	250.0	50.0	50.0	50.0	50.0	50.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	250.0	50.0	50.0	50.0	50.0	50.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	50.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	200.0	50.0	50.0	50.0	50.0	50.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See Attached

Prepared by: Larry Jones
Division: Director, Division of Administrative Services

Phone: 465-5010
Date: 4/14/95

Approved by Commissioner: *[Signature]*
Agency: Department of Environmental Conservation

Date: 4/14/95

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Attachment for

FISCAL NOTE - Proposed SB28(s)

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The existing vehicle inspection and maintenance (I/M) program requires vehicles to be inspected on an annual basis. Vehicle owners must provide the Division of Motor Vehicles with an I/M certificate indicating that the vehicle has passed the emissions test in order to register their vehicle. SB-28(s) would require vehicles subject to I/M programs to be inspected and certified on a biennial basis, rather than the annual basis.

While providing relief to many vehicle owners, a biennial provision would make it harder to detect program evaders. A biennial program would provide owners who illegally register their vehicles to areas outside of an I/M program area, or who typically avoid registering their vehicles, a biennial opportunity to legally register their vehicles without dealing with the I/M requirements. In addition, the Department must treat each violator as a misdemeanor. Therefore, prosecution is expensive and time consuming. The combined conditions would encourage additional program evasion. The Department expects SB-28(s) to reduce program effectiveness by 5 to 15 percent. However, some of the reduction in effectiveness could be offset with minor program adjustments.

SB-28(s) addresses the enforcement concern by allowing a \$200 fine to be issued to an owner of a vehicle subject to an I/M program, which is caught being operated in an I/M area without a current and valid I/M certificate or sticker. The fine simplifies the enforcement effort and provides a relatively stiff penalty, which should help deter program evasion.

The proposed SB-28(s) would also allow the funds collected from the enforcement effort to be used by the Department to enhance the capability to electronically obtain and share enforcement related data with the Division of Motor Vehicles, and to conduct I/M enforcement efforts.

If SB-28(s) is passed, the Department would need \$250,000 in FY96 to for software development. The number of enforcement case loads would increase some, but could be handled by existing staff. The language concerning violations need to be put into both AS 28 and AS 46.14.510.

or greater than 8 ft. in width. Fee: \$5 for movement permit, required when moving unless moved by a licensed transporter or dealer.

MOTORCYCLE INFORMATION

Required Equipment: Protective glasses, goggles or windscreen; two rear-view mirrors. Helmets required on all operators and riders. Children under 5 are not allowed to be transported.

Driver's License: Required (endorsement of regular license); valid for four years; expires on licensee's birthday. Original endorsement \$10. Renewal \$7.50.

License Plates: Required; valid for one year; expiration staggered throughout the year.

Title: Required; fee, \$4 plus sales or use tax. \$1 filing fee plus \$27.85 basic fee, plus excise tax.

Daytime Headlight: While operating a motorcycle during daylight hours, the use of a headlight is required.

Special Driving Rules: Lights required on at all times; riding between lanes prohibited.

MOPEDS

Registration: Required. Fee, \$8.50 original; renewal yearly, \$7.50.

Driver's License: Valid driver's license required; valid for four years.

Minimum Age: 16.

Safety Equipment Required: Headlamp, red tail light, red stop light, white license plate light, red reflector on each side at rear, amber reflector on each side of front, rear-view mirror and brakes on each wheel. If moped does not have windshield, driver must wear goggles, glasses, or a face shield for eye protection. Helmets on all operators and riders. No riders 5 or under.

Special Driving Rules: Cannot be ridden on bicycle path or trail, equestrian (horse) trail, hiking or recreational trail, sidewalk, or upon any fully controlled limited access highway.

MOTORIST LIABILITY LAWS

Financial Liability Law: Mandatory Liability Insurance Law. **Financial Responsibility Law:** Has security and future-proof type law applicable in event of accident causing property damage in excess of \$500 to one person's property or personal injury requiring attention of doctor or death. Minimum financial responsibility limits: \$25,000/50,000/10,000.

As of 1-1-90, motorists must carry on their person proof of auto insurance or financial. Carries a \$475 fine for noncompliance and applies to out-of-state motorists with similar proof-of-insurance cards.

State has Nonresident Service of Process Law.

ACCIDENT REPORTS

Accidents involving death, personal injury or property damage of \$500 or more to one person's property must be reported within 24 hours to chief of police if in city, to county sheriff or state patrol if outside city.

BAIL BOND

Statutory recognition of AAA arrest bond certificates for traffic infractions does not cover driving while intoxicated.

CHEMICAL TEST LAW

Has law with implied consent provision. Breath test authorized. Presumptive level: .10%. Driving (riding) a moped, bicycle, or horse while under the influence of alcohol is illegal and a punishable offense.

MOTOR VEHICLE INSPECTIONS

Safety: Required on out of state vehicles before purchasing licenses in Washington, and on vehicles which have been salvaged. Also required as a result of a citation for defective equipment on all salvaged vehicles.

Emission: Annual emission tests in King County and Spokane. Washington State Patrol 'spot checks' have been ruled unconstitutional and discontinued.

NONRESIDENT VIOLATOR COMPACT

State is not a member.

HIGHWAY PATROL/STATE PATROL

Headquarters, General Administration Bldg. AX-12, Olympia, WA 98504; Commanding Officer, George B. Tellevik, Chief. (206) 753-6540, (FAX) (206) 753-2492.

WEST VIRGINIA

Jane L. Cline, Commissioner, Division of Motor Vehicles, 1800 Washington, East Charleston, WV 25317. (304) 348-3900.

MOTOR VEHICLE REGISTRATION

Proof of Vehicle Ownership: Required. Certificate of Title must be obtained immediately upon registration in West Virginia. Application must be made to Department of Motor Vehicles and must be accompanied by previous owner's assigned Certificate of Title and Federal Odometer Statement (if vehicle is less than 10 years old). Fee, \$5. All liens on vehicle must be recorded with Motor Vehicle Department. Fee, \$5. Mobile homes are titled.

Upon transfer of ownership, seller must deliver endorsed Certificate of Title to buyer within sixty days

Size Limits:

Total length: 50 ft.
Trailer length: 35 ft.
Width: 8 ft.; 8 ft. 6 in. for recreational vehicles.
Height: 14 ft. Trailers exceeding size limits may be operated under permit issued by the Highway Division.

Special Provisions: Riding in towed trailer prohibited, except in fifth-wheel haulers with safety glazing in windows, unobstructed exit that can be opened from inside or outside, and with driver-passenger communication. Riding in pickup camper permitted. Camping in rest areas prohibited. Maximum of one boat or general utility trailer may be towed behind passenger or pleasure vehicles. Total length of both not to exceed 50 ft.

MOTORCYCLE INFORMATION

Required Equipment: Helmet required for all operators and passengers; rear-view mirror, brakes, horn, fenders, muffler, tires approved for highway use, turn signals, license plate and registration and required.

Driver's License: Motorcycle endorsement added to regular operator's license. Fee, \$30, Renewal \$7.

Applicants 16-18 years old must complete a motorcycle rider education course before they may obtain a motorcycle endorsement.

License Plates: Fee, \$9 plus one-time plate fee of \$1.50; valid for two years, expiring on day and month issued.

Title: Required. Fee, \$10.

Daytime Headlight: While operating a motorcycle during daylight hours, the use of a headlight is required.

Special Driving Rules: Lights required to be on at all times; riding between lanes prohibited. Operation on limited access highways permitted.

MOPEDS

Registration Plates: Fee, \$9 plus one-time plate fee of \$1.50; valid for two years, expiring on day and month issued.

Driver's License: Driver's license. Fee, \$26.25.

Minimum Age: 16.

Required Equipment: Same as motorcycle, except turn signal lights are not required equipment. Passengers not allowed.

Title: Required. Fee, \$10.

MOTORIST LIABILITY LAWS

Financial Responsibility Law: Has future-proof law for uninsured accidents. Minimum financial responsibility limits: \$25,000/50,000/10,000.

State has Nonresident Service of Process Law and Guest Suit Law. Mandatory one year license suspension for involvement in an uninsured accident.

State has "add-on," no-fault insurance law. Sale and purchase mandatory. Benefits: Medical \$10,000; 70% of wage loss up to \$1,250 monthly (maximum 52 weeks); \$30 per day loss of services (14-day retroactive waiting period and maximum 52 weeks). General damages: no limit.

Owners must certify liability insurance when renewing registration plates.

ACCIDENT REPORTS

Accidents involving injury, death or property damage in excess of \$400 must be reported to chief of police of the city or sheriff of the county in which accident occurred or Motor Vehicles Division within 72 hours.

BAIL BOND

Mandatory recognition of AAA arrest bond certificates up to \$200, with specified exceptions.

CHEMICAL TEST LAW

Has law with implied consent provision. Breath, blood or urine tests authorized. Presumptive level .08%; commercial motor vehicle operators .04%; under 21, anything over .00%. Driving (riding) a moped, bicycle, or horse while under the influence of alcohol is illegal and a punishable offense. Administrative License Suspension law.

Drivers under 18 years, presumptive level - anything over .00%.

MOTOR VEHICLE INSPECTIONS

Safety: State police may conduct roadside inspections. Biennial emissions inspection in the Portland metro area and Jackson and Multnomah counties.

Emission:

NONRESIDENT VIOLATOR COMPACT:

State is not a member.

HIGHWAY PATROL/STATE POLICE

Office of Superintendent of State Police, 107 Public Service Bldg., Salem, OR 97310; Commanding Officer, Reginald B. Madsen, Superintendent of State Police. (503) 378-3720.

CALIFORNIA
1/1 Requirements

30

CALIFORNIA

MOPEDS

Registration: Required before operation on highway unless a retail purchase which must be registered within 5 days. Fee, \$5. License plate issued. No title issued. No renewal fee required. Social Security number is required. The DMV is authorized to refuse to issue or renew the registration of a driver's license upon a finding that there are overdue or unpaid fines or forfeitures.

Driver's License: Class M2 license or M2 endorsement required. Fee \$5. After 1-1-94 license will be required. Social security number is required. The DMV is authorized to refuse to issue or renew the registration of a driver's license upon finding that there are overdue or unpaid fines or forfeitures.

Minimum Age: 16 with completion of driver training.

Safety Equipment Required: Headlamp, tail lamp, stop lamp, side and rear reflectors, brakes, mirror, horn and muffler. Helmets are required.

MOTORIST LIABILITY LAWS

Financial Responsibility Law: Financial responsibility required of every driver and owner of a motor vehicle at all times. Driving without such proof punishable in case of injury or property damage accident in excess of \$500 by suspension of driving privilege. Minimum financial responsibility limits: \$30,000/15,000/5,000.

State has nonresident service of Process Law. Guest may sue driver.

ACCIDENT REPORTS

Accidents involving death or personal injury must be reported to Highway Patrol or local police within 24 hours. Accidents resulting in death, personal injury or property damage in excess of \$500 or more must be reported, on special form SR1, to Department of Motor Vehicles, Financial Responsibility Office, Sacramento, within 10 days.

BAIL BOND

31

CHEMICAL TEST LAW

Has law with implied consent provision, and unlawful limits. Blood, breath, urine tests authorized. Presumptive level .08%; minors .05%. Driving (riding) a moped or bicycle while under the influence of alcohol is illegal and a punishable offense. Administrative License Suspension law.

MOTOR VEHICLE INSPECTIONS

Safety: Not required.

Emission: Statewide on original transaction, upon transfer in most counties for most vehicles.

Biennial emission inspection includes the following counties: Alameda, Butte, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Marin, Merced, Monterey, Napa, Nevada, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yolo, and Yuba.

NONRESIDENT VIOLATOR COMPACT

State is not a member.

HIGHWAY PATROL/STATE POLICE

Headquarters, 2555 First Ave. Sacramento, CA 95818. Commissioner, M.J. Hannigan. (916) 657-7152. (FAX) (916) 657-7324. Mailing address: P.O. Box 942898, Sacramento, CA 94298-0001.

COLORADO

John Tipton, Executive Director, Department of Revenue, State Capitol Annex, Denver, CO 80261.

Dee E. Hartman, Director, Motor Vehicle Division, 140 W. Sixth Ave., Denver, CO 80204. (303) 623-9463.

MOTOR VEHICLE REGISTRATION

Proof of Vehicle Ownership: Required. Application for Certificate of Title must be secured through the clerk and recorder of the county in which the applicant resides, except in Denver, where title is issued through Denver Motor Vehicle Department.

Upon transfer of ownership, Certificate of Title must be endorsed by seller and delivered to buyer for surrender to the county clerk in county of buyer's residence within 45 days. Thereupon issuance of new Certificate of Title to buyer becomes evidence of his ownership. Fee for issuance of Certificate of Title \$5.50; duplicate certificate, \$3.50.

Registration: Staggered. Upon purchase of new car, motorist has 45 days to apply to local county clerk for registration; new resident must apply within 45 days. Period of grace 30 days.

Tempest in a Tailpipe

States got the EPA to back down on its enhanced auto emissions testing requirement. But they still must find ways to clean their air.

When you look outside on a summer day, you generally see clean air. Even when you look at the tailpipe of your car, you won't see much," says Dennis Keschl of the Maine Department of Environmental Protection. "It's hard to sell air toxicity."

Keschl speaks from experience. Last July, Maine became the first state on the East Coast to implement enhanced auto inspections mandated by the U.S. Environmental Protection Agency. The high-tech, centralized emissions control program was designed to replace traditional tailpipe tests conducted at gas stations and satisfy requirements of the Clean Air Act. But things didn't go according to plan. The costly program proved to be overwhelmingly unpopular with the public, as well as politically explosive, and after only eight weeks, the operation was suspended.

Indeed, this past fall about a dozen Northeastern and Western states balked at the EPA-prescribed approach to reducing smog levels in "non-attainment" areas by 15 percent by 1996, even though they risked losing millions of dollars in federal highway funds. Then in December, the federal agency backed down and announced it would allow states greater leeway in designing their overall clean air strategy. As a result, it is possible that Maine and others will scrap any plans to use the new inspection system.

After passage of the Clean Air Act amendments in 1990, EPA regulators decided that states must utilize the latest in car inspection technology: a computerized exhaust test known as the I/M 240. While traditional testing systems monitor cars as they idle, the new "treadmill" test is programmed to mimic various driving conditions in order to more accurately measure how much cars pollute.

The test involves placing the car on a dynamometer, as the treadmill is known, and revving it up to simulate highway

BY ALEX DANIELS

speeds. In addition to testing for nitrogen-based pollutants, something that the old tailpipe test couldn't do, the new method also monitors whether fuel vapor is escaping into the atmosphere.

The EPA plan was for especially polluted states to administer the test every two years in centralized locations. If cars flunked the test, their owners would have to pay for up to \$450 in repairs before

have to make several trips back and forth between the test centers and repair shops, so-called "ping-ponging."

The first seeds of rebellion were sown in California, which persuaded the EPA last March to allow it to operate a hybrid program of testing at gas stations and centralized facilities. Northeastern officials have long looked to the Golden State as a barometer to forecast problems that might arise in their own efforts to clean the air. And they interpreted what



The I/M 240, a sophisticated emissions test, has proved to be highly unpopular with the public, and states are fighting hard to stay off the treadmill.

they could be granted a waiver of the test requirements. EPA estimated that repair bills would not exceed \$130 for the average car that failed inspection.

But organizations representing motorists and service station owners (who currently perform tailpipe tests in a number of states) criticized the expense associated with the new treadmill tests. They also argued that the centralized test facilities were inconvenient: Drivers would

happened there to mean that EPA was open to negotiations.

So when New Jersey ran a pilot program using the treadmill test last fall, state officials didn't hesitate to voice their dissatisfaction, asserting that motorists were having to wait in line for up to three hours because of system failure. Bob Thompson, a spokesman for the New Jersey Department of Motor Vehicle Services, says that the I/M 240 was inoperable 60 percent of

the time. It's a fragile machine for every-day use," he maintains.

Drivers in Maine complained that the test operators were rude and often did not know how to operate the equipment properly. Although EPA officials acknowledge that there were some initial problems with the test, John Cabaniss, director of external affairs at the EPA's Office of Mobile Sources, argues that the public backlash that followed the implementation of enhanced testing in Maine was not justified from a technical standpoint. "Early on, they had a couple of snafus. That happens," he says. "I've been in a shopping mall and had the lights go out. It doesn't mean we should ban shopping malls."

But once it was revealed that then-Governor John R. McKernan Jr. had arranged for a wood paneling plant to utilize excess pollution credits generated by the increased effectiveness of inspections, the dynamometer turned into political dynamite. Decrying the notion that industry could belch out more toxins at the expense of individual car owners, a grassroots campaign, led by a group called Citizens for Sensible Emissions Laws, gathered 53,000 signatures on a petition to repeal the state's stringent testing laws. If the legislature fails to kill the program, the debate will spill out of the statehouse next November in the form of a statewide referendum.

Pennsylvania, too, has put its entire program on hold. Pressured by the American Automobile Association and service station owners, legislators voted last fall to suspend the start date for enhanced testing. When then-Governor Robert P. Casey vetoed the measure, he was promptly overridden by a comfortable margin. The state's new governor, Tom Ridge, campaigned on a platform that included abolishing the new system.

Since virtually all the affected states repudiated EPA's plan, New Jersey Assemblywoman Maureen Ozden thinks the threat of sanctions amounted to nothing more than a veil of smoke. "You can't sanction all of the Northeastern states," she says. "There would be a political uprising."

EPA Administrator Carol M. Browner announced at her December meeting with several Northeastern governors that although the aim of reducing pollution by 15 percent remains intact along with the threat of sanctions for states that cannot meet this goal, EPA would grant states

States are re-examining the options available to them and questioning whether drivers should bear most of the burden of cleaning the air.

flexibility in how they want to achieve this end.

While enhanced inspections remain an option, policy makers could be more lenient on car drivers as long as it could be demonstrated that pollution could be reduced by alternate means. Delaware's natural resources secretary, Christophe A.G. Tulou, believes that meeting the Clean Air Act's requirements will still be a challenge, but the recent shift by the EPA will allow states to "look at the whole menu." States are now re-examining the choices available to them and questioning whether car drivers should bear most of the burden of cleaning the air.

The problem is that when it comes to air pollution, cars are the single largest contributor to the mess. It is estimated that more than half of all ozone production is attributable to auto emissions. Working against the drive to deep-six the program are a host of environmental administrators, motor vehicle officials and health lobbyists. They point out that setting their cross hairs on cars is about 10 times more cost-effective for states than focusing on stationary sources.

Still, the general public has a hard time understanding the emphasis placed on car testing, particularly because they know that most newer cars have computerized systems that reduce emissions. While proponents of the treadmill test explain that the test computer is able to interact with the car system to accurately diagnose breakdowns, Douglas L. Lawson, a research professor at the Desert Research Institute, stresses that people who already paid for smog-reducing technology when they purchased a car shouldn't be subject to enhanced testing. "It's like giving everyone an aspirin because one person has a headache," he says.

Maryland went ahead and began using the treadmill system in January. However, in what motor vehicle Administrator W. Marshall Rickert called a "customer-friendly" action, the state decided

at the last minute to exempt vehicles manufactured before 1984 and after 1994—nearly half of all automobiles in the state. One reason the enhanced test has not generated much opposition there and in Connecticut, which is scheduled to begin using it in April, is that both have been operating centralized inspection centers for standard tailpipe tests. Drivers were already accustomed to the idea of traveling 20 miles to have their cars' emissions checked.

Other vehicle-related options include targeting truck and bus fleets, conducting random roadside tests and reducing the minimum amount spent on repairs before test waivers are granted. Which methods will ultimately be used in each state depends upon a range of political, budgetary and technical factors. The difficulty of choosing a program is compounded by the fact that environmental groups and contracted providers of test services in some states have threatened lawsuits if the IM 240 is not utilized.

Many officials agree, however, that making a decision now could be pointless, due to a belief that the mid-term elections reflect a new anti-government political reality. Although the EPA has reaffirmed its position that the pollution reductions spelled out in the Clean Air Act must be met, there is a growing feeling that the political tide that ushered in the Clean Air amendments has ebbed. And there are rumblings that the 104th Congress might review the Act itself and gut it of many key environmental regulations.

Fearing that the entire federal clean air program has been reopened for debate, champions of the enhanced test are focusing their efforts less on its implementation than on convincing policy makers of its very necessity. Citing their belief that enhanced programs will appeal to a public genuinely concerned about clean air, proponents hope that a reconsideration of the Clean Air Act will direct the public to focus on its successes. "I do not believe that the November 5 election was a mandate for rolling back environmental programs," says Glen Besa of the Maryland chapter of the American Lung Association. "Politicians who believe that do so at their own peril."

While the debate continues, however, it appears that the movement toward implementing enhanced inspection programs will be left spinning its wheels. □

EPA Message Mixed on Clean Air Act Dates

The U.S. Environmental Protection Agency continues to send a mixed message to states struggling to comply with federal clean air laws.

Sanctions against California for failure to meet a Nov. 15 Clean Air Act deadline were on again then off again in January. Shortly after it threatened to withhold as much as \$800 million in federal highway funds, the agency relented and said it would not keep funds from the earthquake ravaged state. But unless California can work out a compromise on how it deals with certain

EPA automobile exhaust testing rules, its highway funds could be in jeopardy next year.

Thirty-eight states passed legislation last year to implement new federal requirements for automobile emission inspection and maintenance (I/M) programs to avoid such sanctions. However, many passed enabling legislation under protest, questioning the value of a new, expensive program of unknown effectiveness.

Believing the EPA sanctions were toothless, Louisiana legislators decided to stop

implementation of the enhanced I/M program in affected areas of their state. And Louisiana Senator Joseph Sevario is heading a coalition of states that will seek amendment of the EPA's rules on the program. The group is committed to cutting air pollution, but wants to concentrate on more reasonable and cost-effective methods to accomplish the goals of the Clean Air Act. An initial meeting last November included representatives from Louisiana, Delaware, Arizona, Colorado and California.



Illinois and Indiana were also threatened in January with loss of highway funds—EPA said it would hold back as much as \$700 million for Illinois and up to \$280 million for Indiana—but both states were expected to meet the requirements early this year.

Indiana could not fully fund the new I/M program last year, so did not pass the legislation. Illinois simply did not consider the issue before the Legislature adjourned for the year, but has since done so in the 1994 session.

The EPA has issued options for California, and presumably other states, to implement the I/M program. These options include exempting newer cars from the EPA-mandated program. Instead, newer cars could be tested in a less expensive program similar to the one California currently has in place. Another option would be to allow only current Smog Check (the current California test program) stations to be eligible for certification as repair stations. EPA has also recommended a buy-back program for current test equipment.

Inspect Schools and Day-Care Centers for Lead?

Though few states check schools and day-care centers for lead-based paint, bills introduced recently in Congress could require such inspections.

"The problem with this is that it diverts attention from the major problem area [homes]," notes Bob Schlag, associate chief of California's Childhood Lead Poisoning Prevention Program.

State legislation has focused on eliminating lead hazards in homes. Most of the 190 bills introduced in 1993 dealt with lead hazards in residences. New York and Vermont had bills requiring inspections of schools and child-care facilities for lead; New York's bill failed.

In most lead poisoning cases, state officials point out, children are exposed before they enter school.

Schlag admits that lead

hazards in schools and day-care centers have not been adequately studied and warrant evaluation and analysis. But, he adds, "Inspecting schools would cause unnecessary hysteria and greatly burden limited education budgets while providing only a minimal public health benefit."

A recent U.S. General Accounting Office (GAO) survey of 16 states and 57 school districts found that most have no laws or policies requiring schools or child-care facilities to be inspected for lead.

Minnesota and North Carolina, however, do conduct regular inspections in some child-care centers. And Illinois inspects for lead-contaminated soil, a major contributor to poisoning.

Of the school districts in the GAO survey, 50 tested

drinking water, which is required under federal law. Nine tested for lead-based paints, and three checked for lead-contaminated soil.

South Carolina, a state that does inspect such facilities, found 18 percent of the child-care centers and foster homes it tested did contain lead hazards.

In two Charleston church-based centers, more than 40 percent of the children had elevated lead levels in their blood, and three needed medical attention.

Such examples make it "worthwhile to examine these centers for lead hazards and clearly worthwhile to screen children in the centers," concludes Routt Reigert, professor of pediatrics, Medical University of South Carolina, and a supporter of school inspections.

Four years after its passage, the 1990 Clean Air Act is coming to crisis

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by Will Nixon

In the United States, the ill winds blow in many directions. From her house near the Maine coast, Lee Buffinton can watch a brown bank of summer smog, which migrates up the Atlantic seaboard every summer, wash inland from the ocean to ruin her day. With her scarred lungs, a legacy of childhood illnesses, she is a human pollution monitor able to tell when the ozone levels rise above her state's safety standard, as they do more than thirty days every summer. She must quit her gardening or tennis and take to a hammock with a cup of herbal



Lee Buffinton, an asthma sufferer, can watch the smog blow in from the ocean during summer days in Maine.

tea because any exercise would make her sick. "I can get a scratchy throat, congestion, a headache. That can work itself into coughing, wheezing, shortness of breath," she says. "Just hiking up the hill from my garden does it."

Gloria Inverso lives in "Rocky" courtyard near the Italian market and

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the famed Pat's Cheese Steak stand in South Philadelphia. She is the third generation on her block of look-alike brick row houses (which tourists often peer into, expecting to see the nineteenth century). But in 1989 the city rezoned her neighborhood, opening the way for the fifty-four auto repair and auto body shops she now counts within six square blocks. Inverso also faces dry cleaners, sign painting shops—all in all, a major pollution source divided into dozens of parts. Her ordeal began at the Labor Day block party in 1990, when she arrived late and

found that everyone had already taken their picnic food inside because the boys had come down with bloody noses from breathing air that smelled like bottles and bottles of nail polish remover. Since then, Inverso has had two dogs die. A neighbor's cat went crazy after three weeks of sitting in the windowsill. "Birds have dropped dead like a Raid commercial with their feet in the air," she says. "Everybody sounds like they have a cold 365 days a year." She loses her breath sometimes just walking up a few stairs, and she has shed thirty to forty pounds. "I have mucus in my chest and sinus drips. I can't eat. It's a great weight loss program for anyone who doesn't want to spend money."

To live in Altgeld Gardens on

the south side of Chicago, a neighborhood ringed with chemical factories and fronted by a sewage treatment plant, Patricia Jackson of People for Community Recovery needs two basic pieces of asthma equipment: a steroid inhaler used twice a day and a medicated inhaler used five times a day. "If I didn't, I'd be gasping for breath every half hour," she says. Before she moved here, an inhaler would last her six months to a year; now she buys a new one every month. And she's not alone. "If someone sees you use an inhaler, they say, 'Oh you've got asthma too.' It's very common here," she adds. "Some people are confined to their homes with respiratory machines, and two died from asthma this winter. I was speaking on the phone with a woman in Denver, Colorado, who works at the National Jewish Center. As soon as she heard where I live, she said, 'You've got to get out of there.' I know, but it's not that easy."

In 1990, President Bush signed the Clean Air Act Amendments, a legal behemoth more than 700 pages long designed to solve countless problems like these. All told, this multifarious law aims to reduce toxic air emissions by over 70 percent; cut the sulfur dioxide emissions that cause acid rain by almost 50 percent; phase out chlorofluorocarbons and other ozone-depleting substances; and ensure that the vast majority of Americans live in areas with healthy air by the year 2000—no small task, since the Environ-

mental Protection Agency (EPA) estimates that at present, 140 million people live in counties prone to polluted air.

To accomplish all this, the Clean Air Act takes a decentralized approach to the mightily decentralized problem of air pollution. It deals with—just for starters—diesel buses, paint fumes, electric utilities, and highway planning; chemical plants, lawn mowers, carpooling, and dry cleaners; marine terminals, employee parking privileges, and the chemistry of gasoline. And, to fragment the process still further, some of these issues are in the hands of the EPA, some in the hands of the states.

Activists working to enforce the 1990 Act have had some notable success stories. There was the decision last February by the Ozone Transport Commission (which coordinates clean air efforts along the smogbound Atlantic seaboard) to petition EPA to impose California's strict new auto emissions standards on states from Virginia to

implement stages of the Act. States with serious ozone problems, for instance, must put together customized smog control plans by November of this year—but few seem ready to make this critical deadline, says Deborah Sheiman, an NRDC senior researcher. "What we are watching is the imminent collapse of one of the most important clean air programs on the books," she adds. And, in one of the 1990 Act's hottest political showdowns, California recently wriggled out of the EPA's specifications for an improved auto inspection program to catch the 20 percent of cars that are causing 60 percent of the pollution.

And, as if delays and compromises were not enough, there is mounting scientific evidence that



Gloria Inverso in front of one of fifty-four auto repair shops in her neighborhood.

Act to have EPA improve its ozone and particulate standards, but it will take years before the agency reaches a decision.

There are several reasons why clean air will not come easy. Industry has been well equipped to aid the bureaucratic weakening of the original vision of the law, bringing on a phalanx of attorneys and lobbyists to influence each new regulation as it comes up. The EPA's new rules on toxic emissions from dry cleaning operations, for example, are laxer than California's.

Meanwhile, the breathing public, even those who suffer greatly from air pollution, plays little part in the debate. Air pollution is hard to see and harder to understand. Hospitals have no "particulate wards" for the heart and lung patients put at risk by breathing diesel exhaust, and, as Carlos Martinez of the Labor/Community Strategy Center in Southern California puts it, "If people don't know what's killing them, they won't react."

Ozone smog is almost as bad. On the one hand, it is easy to confuse ground-level ozone smog with the stratospheric ozone layer: "I have literally had two people tell me that they heard there was an ozone alert, so they put extra sunscreen on their children," says Lee Buffinton. On the other, people affected by breathing ozone often do not know what hit them. Buffinton comments, "I was at a meeting one

"What we are watching is the imminent collapse of one of the most important clean air programs on the books."

Maine. There was EPA's decision to hold public hearings in "Cancer Alley," the mostly African-American region between Louisiana and Texas, in order to give citizens a chance to testify on its weak organic chemical plant rules. After hearing hours of anguished testimony from people who live near the plants, EPA toughened up some of the regulations.

Yet some environmentalists fear that, all in all, the 1990 Act faces the same fate as earlier clean air laws: good plans on paper that are resisted in practice. The EPA has fallen behind in conducting studies and issuing regulations. States keep missing their annual deadlines to

the EPA has set its "healthy" levels for the two most widespread pollutants, ozone smog and fine particles (or particulate matter), too high. Its limit for ozone is a one-hour concentration of 0.12 parts per million, but current tests find that people can suffer fatigue, congestion, and other ill effects from breathing ozone at 0.08 parts per million over the course of a day. Epidemiological studies in a number of cities, including six tracked by a Harvard team since 1974, have found a strong link between fine particulates and mortality—even at levels better than EPA's standard—with estimates running from 50,000 to 70,000 premature deaths a year. The American Lung Association has sued under the Clean Air

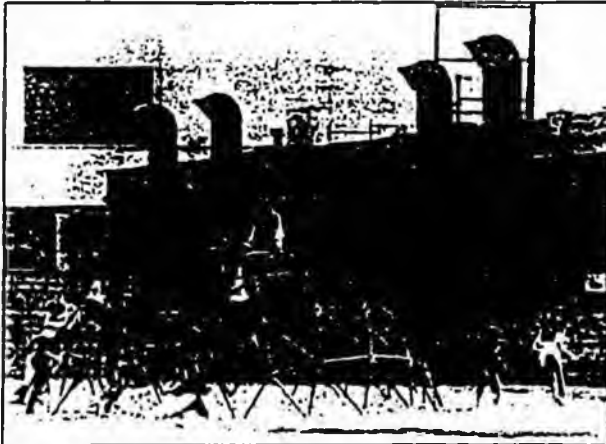
muggy summer night, and half of the people in the audience had raspy voices and coughs. Someone said, 'What is this pollen?' I said, 'I think it's the air pollution.' They looked at me like, 'What?'"

The Clean Air Act itself does not help. To the ordinary citizen, it is a Pandora's box of atmospheric pollution chemistry, abstruse policy concepts, and acronyms galore. Anyone wanting to join the fun

asthma, respectively, though stringent air quality regulations would also bring them relief. GHASP (Galveston Houston Alliance to Stop Pollution) has just a dozen members agitating for a tough state air plan, even though Houston has an ozone problem second only to that of Los Angeles. GHASP leader Brandt Mannchen comments that local conservation issues such as protecting Galveston Bay attract

control the pollution because we're still breathing it."

Indeed, one of the best-kept secrets of the Clean Air Act is that, when it is enforced, it works. Without it, we might be living by now in the "air noir" atmosphere of the movie "Batman" or of metropolises like Mexico City, where you can read your fate in the black smoke signals rising from the tailpipes. Since it was first passed in 1970, the



South Coast Air Quality Management District

The EPA estimates that 140 million Americans live in counties prone to air pollution.

One of the best-kept secrets of the Clean Air Act is that, when enforced, it works.

must learn fluency with the terms SIP, NO_x, RACT, MACT, VOC, HOV, ECO, UAM, and VMT. (Pop quiz: Which is a complicated way of saying "Leave the car at home"?) Indeed, one activist in Washington, D.C., has found the campaign for state smog-reduction plans to be the most difficult he has ever worked on.

In defense of all the complexity, Bill Sessa, a spokesman for the California Air Resources Board, quotes a federal official who once said, "Even the simplest air quality issue is more complicated than the most complex water or solid waste issue." But the upshot is that Clean Air Act issues tend to remain the purview of full-time clean air professionals—advocates, public officials, and industry lawyers who understand its concepts and speak its language.

Gloria Inverso and Patricia Jackson focus their community work on siting issues and on coping with

the country—the story is the same: food labeling is more likely to be on the agenda than ozone.

With public involvement in clean air policy low, and only a limited number of beleaguered air quality advocates to defend it, the Clean Air Act has become an easy target of criticism. It is now fashionable, in many Washington circles, to regard the Act as a dinosaur typical of an outdated "command and control" approach. "Newer environmental thinking calls for upfront pollution prevention rather than end-of-the-tailpipe controls, and that's great," says Jayne Mardock of the Clean Air Network, a national umbrella organization of clean air advocates. "But you can't throw the baby out with the bathwater. I'll be the first to throw my hat in the air when all air pollution has been prevented, but until that day we still need to con-

more public support. And when one checks in with asthma support groups in Los Angeles—surely the most likely hotbeds of grassroots clean air activism in

Clean Air Act has dramatically cleaned up our skies by filtering our industrial economy, adding everything from catalytic converters on cars to smokestack scrubbers on coal-burning utilities. Between 1983 and 1992, airborne lead fell 89 percent as leaded gasoline was phased out. Carbon monoxide fell 34 percent, even as Americans drove 37 percent more miles. Ozone, a tricky one to average because it varies so much with hot and cool summers, declined about 10 percent.

Even the effects of the 1990 Amendments have already registered at the air monitors. In twenty-eight metropolitan areas with winter carbon monoxide problems, for instance, the EPA made gas stations switch to oxygenated gasoline that costs up to five cents a gallon extra but burns cleaner. In 1992, these areas saw their peak levels of carbon monoxide drop by 13 percent—virtually eliminating violations of the carbon monoxide standard.

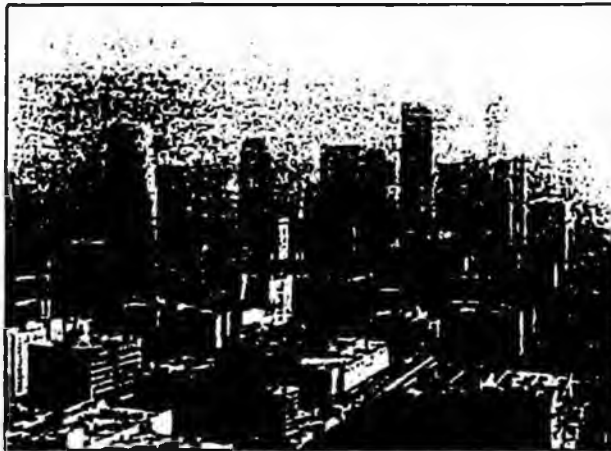
And the Clean Air Act is having benefits in other areas, as well. It amounts to an industrial development policy for new pollution control equipment. The EPA cites a recent study showing that environmental protection is already a \$100

pollution control industry alone will grow by \$50 billion to \$70 billion over today's revenues by the year 2000. That could translate into 300,000 new jobs. And it is an area of technology with strong export potential, as Bill Sessa confirms: "Literally every piece of hardware that reduces pollution on cars anywhere in the world was developed for California."

ments that cars have made, cleaning up by 95 percent since 1970 (though it is worth noting that electric cars will still be 200 times cleaner over their lifetimes than gasoline-powered cars). Cleaning up the motors for lawn mowers and chain saws, for instance, which have long been designed with no thought for air quality, will take a far more efficient design or a cat-

Lung Association in Chicago. In Maine, the population grew 8 percent during the 1980s while the number of miles driven leaped by 60 percent.

And so the Clean Air Act, for all its reputation as the fuddy-duddy of environmental laws, contains what may be the most ambitious pollution prevention program on the books: a mandate for society to



Air apparent: LA is only the worst example of a pervasive ozone smog problem in U.S. cities. Yet most states are about to miss a critical deadline for smog control plans.

In addition, Project California predicts that California's mandate to auto manufacturers, requiring them to start selling a certain quota of electric vehicles in the next few years, could produce 71,000 jobs by the year 2010. (Project California is a committee of industry, academics, labor, and state officials seeking to develop new clusters of high-tech environmental industries.) Indeed, one of the biggest boosters of the electric-vehicles mandate is the state machinists union.

Similar results could follow as the EPA moves to regulate in other fields. After twenty years of focussing primarily on passenger cars, the agency is starting to pay much more attention to all of the other fossil-fuel engines operating in our society: diesel buses and trucks, farm and construction equipment, lawn and gardening machinery, motor boats and jet skis, perhaps even locomotives and jet planes. Many of these engines will undergo

analytic converter the size of a fifty-cent piece.

But, in the end, the Clean Air Act does admit that reinventing technology is not enough. Engines can only be so clean, and when their number is growing by leaps and bounds, the aggregate pollution will increase in spite of every improvement at the tailpipe. "If car use had gone up in Chicago at the same rate as population instead of twelve times faster, we would have 20 to 25 percent less hydrocarbons and nitrogen oxides [the main ingredients of ozone smog],"

put the brakes on the sprawling ex-urban subdivisions, industrial parks, and highway extensions that turn us into such drive-oholics in the first place. Much as utilities have discovered "least-cost planning," which allows them to use energy efficiency as the cheaper alternative to building new power plants, so too will metropolitan planning councils, local zoning boards, and state transportation departments have to learn a new way of life. In tandem with the Surface Transportation Efficiency Act of 1991—which supplies the "carrot" of federal funds for transportation infrastructure—the Clean Air Act requires the states to ensure that the sum total of new road-building in a year adds no new pollution.

Will it work? How well? How soon? Stay tuned. And remember: the script is still being written. Anyone with an interest in the outcome needs to take part. •

Airing the issues

For information on clean air activism in your area, contact the Clean Air Network at 202-624-9388.