

CHAPTER 41
EQUIPMENT STANDARDS

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Enactment. Chapter 41 was added June 17, 1976, P.L.162, No.81, effective July 1, 1977, unless otherwise noted.

Cross References. Chapter 41 is referred to in section 3581 of this title.

§ 4101. Purpose of part.

The purpose of this chapter and Chapters 43 (relating to lighting equipment) and 45 (relating to other required equipment) is to establish minimum standards for vehicle equipment the performance of which is related to vehicle safety, noise control and air quality and to make unlawful the sale and use of items which do not comply with the requirements of this part or with the standards and regulations promulgated by the department.

§ 4102. Definitions.

The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Centralized inspection." A system for vehicle emission inspection utilizing consolidated facilities owned and operated by the Commonwealth or by a contractor or contractors to the Commonwealth that provide for vehicle emission testing only.

"Decentralized inspection." A system for vehicle emission inspection using privately owned and operated department-certified facilities to provide for vehicle emission testing or allowing for repairs or both.

"Enhanced emission inspection program." A vehicle emission inspection program as defined by the Federal Environmental Protection Agency and including, but not limited to, computerized emission analyzers, on-road testing and inspection of vehicle emission control devices through a contracted centralized or decentralized inspection program.

"Federal standard." A minimum standard of vehicle or vehicle equipment performance issued under the National Traffic and Motor Vehicle Safety Act (80 Stat. 718, 15 U.S.C. § 1381), the Motor Vehicle Information and Cost Savings Act (86 Stat. 947, 15 U.S.C. § 1901) or the Clean Air Act (81 Stat. 485, 42 U.S.C. § 1857).

"On-road testing device." An exhaust gas analyzer capable of measuring vehicle exhaust gas content outside of the garage environment while the vehicle is in motion on the road or at roadside.

"Qualified Commonwealth employee." An individual, police officer or qualified department employee who has completed training in the inspection or weighing of vehicles as required by section 4704 (relating to inspection by police or Commonwealth personnel), 4981 (relating to weighing and measurement of vehicles) or 8302 (relating to powers and duties of department).

"Subject vehicle." A motor vehicle having a gross vehicle weight rating of 9,000 pounds or less which is of a model year and uses a type of fuel specified by regulation of the department if the secretary certifies by publication in the Pennsylvania Bulletin that an emission inspection program for such vehicles is required to meet the attainment goals established by the Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.), as amended, and regulations promulgated by the United States Environmental Protection Agency.

"Vehicle equipment standard." A minimum standard for vehicle performance or vehicle equipment performance which meets the needs of vehicle safety, noise control or air quality control, which is practicable and which provides objective criteria.

(Dec. 16, 1992, P.L.1250, No.166)

Cross References. Section 4102 is referred to in section 4150 of Title 3 (Agriculture).

§ 4103. Promulgation of vehicle equipment standards.

(a) General rule.--The department shall promulgate vehicle equipment standards for vehicles, equipment and devices required under this part. To the maximum extent possible, consistent with safety, the standards shall be expressed in terms of minimum acceptable performance levels, measured against objective testing parameters.

(b) Applicability of Federal standards.--Federal standards promulgated with respect to the performance of any vehicle or item of equipment shall have the same force and effect as if promulgated by the department under subsection (a) and shall supersede any Commonwealth standard applicable to the same aspect of performance for the vehicle or item of equipment.

(c) Incorporation of standards by reference.--Subject to the provisions of subsections (a) and (b), applicable standards or recommended practices issued by the National Highway Traffic Safety Administration, U.S. Department of Transportation, the Vehicle Equipment Safety Commission, the American National Standards Institute, the Society of Automotive Engineers or any other generally recognized standards setting body may be adopted by reference, provided that copies of the standards are incorporated in the notice of proposed rule making.

(d) Applicability to certain vehicles.--Vehicle equipment standards contained in this part or promulgated by the department under the authority given in this part shall not apply to a motor vehicle registered as an antique or classic vehicle containing equipment which meets the original manufacturer's specifications.

(e) Extension of standards prohibited.--Vehicle equipment standards promulgated by the department shall not be extended to any vehicle which, because of its date of manufacture, is not required by Federal standards to have the equipment.

Cross References. Section 4103 is referred to in sections 3716, 4104 of this title.

§ 4104. Testing and approval of equipment.

(a) Authority of department.--The department may require new vehicles and equipment to be tested and approved for compliance with the requirements of this part or any vehicle equipment standard adopted pursuant to section 4103(a) (relating to promulgation of vehicle equipment standards).

(b) Basis of approval.--Approvals may be based on certification furnished to the department by the American Association of Motor Vehicle Administrators, or if the American Association of Motor Vehicle Administrators certification program does not cover the type of vehicle or equipment, the department shall determine approval on test reports prepared by such testing laboratories as the department may designate.

(c) Procedure for approval.--The department shall establish by regulation the procedure to be followed when request for approval of any item of equipment is submitted under this section. The department shall not unreasonably withhold designation of any laboratory which meets the minimum criteria established by the department as an approved laboratory for equipment testing. Where a regulated manufacturer has its own in-house testing facilities which meet the minimum criteria, the department may accept test reports from the manufacturer for the purpose of granting equipment approvals.

(d) Markings on approved equipment.--Each item of equipment requiring approval by the department shall bear the trademark, name or code symbol under which it is approved. If practicable, the markings shall be legible after installation. For the purposes of this subsection, code symbol means one assigned and approved by the department in the absence of a name or trademark.

(e) Lists of approved equipment.--The department shall maintain lists of all items of equipment which have been approved under authority of this part. Copies of the lists or portions of the lists shall be made available at cost upon request.

Cross References. Section 4104 is referred to in section 1954 of this title.

§ 4105. Revocation and renewal of certificates of approval.

(a) Hearing to review approved devices.--When the department has reason to believe that an approved device being sold commercially does not comply with the requirements of this part, it may, after giving 30 days' notice to the person holding the certificate of approval for the device, conduct a hearing upon the question of compliance of the approved device. After the hearing, the department shall determine whether the approved device meets the requirements of this part and shall notify the person holding the certificate of approval of the determination.

(b) Devices determined to be in violation.--If the department determines as a result of the hearing that the device does not meet the requirements of this part, the person holding the certificate of approval shall have a period of 90 days to resubmit a request for approval. In the event the device is determined to be hazardous, the department may take immediate action through injunctive relief pursuant to section 4108 (relating to injunctive relief). If the person holding the certificate of approval fails to satisfy the department that the resubmitted device as thereafter to be sold meets the requirements of this part, the department shall revoke the approval issued unless the device is

resubmitted to and retested by an authorized testing laboratory and is found to meet the requirements of this part. The department may require that all devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this part.

(c) Expiration of certificate.--Certificates of approval issued for items of equipment required to be approved under this part will not expire except as provided by regulation or until revoked by the department.

(d) Renewal of certificate.--Certificates of approval which expire pursuant to regulation shall be void after the period stated from the date of issue unless application is made for renewal of the certificates in accordance with the procedure established by the department, together with the applicable fee, and a new certificate of approval is issued.

(e) Promulgation of regulations.--The department shall promulgate rules and regulations to effectuate the provisions of this section.

Cross References. Section 4105 is referred to in section 4106 of this title.

§ 4106. Market surveillance program.

(a) General rule.--The department shall maintain a continuing program of market surveillance to insure that any items of vehicle equipment offered for sale in this Commonwealth and for which approvals are required are in compliance with the law.

(b) Purchase and testing of samples.--The department may undertake at State expense random retail purchase and compliance testing of samples of equipment which is covered by a valid certificate of approval or which has been certified by its manufacturer as being in compliance with an applicable Federal motor vehicle safety standard. If the samples, upon testing, fail to meet the applicable performance requirements, the department may commence revocation proceedings pursuant to section 4105 (relating to revocation and renewal of certificates of approval).

(c) Notice of violations.--If the market surveillance program reveals instances of items of equipment being offered for sale which have not been submitted for approval as required by State law or regulation or have been disapproved or have not been certified as being in compliance with an applicable Federal standard, immediate written notice of that fact shall be furnished the dealer, distributor, wholesaler or manufacturer. The dealer shall not thereafter sell the equipment and the distributor, wholesaler or manufacturer shall recall all the equipment from all dealers.

§ 4107. Unlawful activities.

(a) Violation of vehicle equipment standards.--

(1) It is unlawful for any person to sell, offer for sale, lease, install or replace, either separately or as part of the equipment of a vehicle, any item of vehicle equipment affecting the operation of the vehicle which does not comply with this title or regulations promulgated thereunder, or which does not comply with an applicable Federal motor vehicle safety standard adopted by regulation by the department.

(2) Any person convicted of violating this subsection shall be subject to a civil penalty of not more than \$100 for each violation. Each violation of the provisions of this subsection shall constitute a separate violation with respect to each motor vehicle or item of motor vehicle equipment or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty shall not exceed \$10,000 for any related series of violations.

(b) Other violations.--It is unlawful for any person to do any of the following:

(1) Willfully or intentionally remove (other than for purposes of repair and replacement) or render inoperative, in whole or in part, any item of vehicle equipment which was required to be installed at the time of manufacture or thereafter upon any vehicle, by any law, rule, regulation or requirement of any officer or agency of the United States or of the Commonwealth, if it is intended that the vehicle be operated upon the highways of this Commonwealth unless the removal or alteration is specifically permitted by this title or by regulations promulgated by the department.

(2) Operate, or cause or permit another person to operate, on any highway in this Commonwealth any vehicle or combination which is not equipped as required under this part or under department regulations or when the driver is in violation of department regulations or the vehicle or combination is otherwise in an unsafe condition or in violation of department regulations.

(2.1) Operate a motor carrier vehicle, bus or school bus the brake system of which is in such condition that further operation would be hazardous under section 4704(c)(1) (relating to inspection by police or Commonwealth personnel).

(3) Do any act forbidden by this part or fail to perform any act required under this part.

(b.1) Out-of-service criteria.--No person shall operate a motor carrier vehicle or cause, permit, require or otherwise allow any other person to operate a motor carrier vehicle in violation of driver out-of-service criteria or standards periodically adopted by the United States Department of Transportation and adopted by reference by the department under the provisions of section 6103 (relating to promulgation of rules and regulations by department). The department shall coordinate with the Pennsylvania Public Utility Commission in the enforcement of this subsection and 66 Pa.C.S. § 3312 (relating to evasion of motor carrier and broker regulations).

(c) Use of certain equipment unaffected.--This part shall not be construed to:

(1) Prohibit the use of parts or equipment required by the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718, 15 U.S.C. § 1381) or the use of any other parts or accessories on any vehicle not inconsistent with the provisions of this title or regulations promulgated thereunder.

(2) Limit the use of independent after market repair and service parts in the repair of vehicles and items of vehicle equipment unless in violation of the provisions of this title or regulations promulgated thereunder.

(d) Penalty.--

(1) (i) Except as provided in subparagraph (ii), a person who operates a motor carrier vehicle or a bus in violation of subsection (b)(2) commits a summary offense and, upon conviction, shall be sentenced to pay a fine of \$25 per violation, except that the minimum fine for a violation not related to driver's hours of service which causes the driver or the vehicle to be placed out of service under section 4704(c) (relating to inspection by police or Commonwealth personnel) shall be \$50 per violation. The maximum fine which may be levied on the basis of multiple charges filed together shall be \$500.

(ii) A person who operates a motor carrier vehicle, bus or school bus in violation of subsection (b)(2.1) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$150, except that, if multiple charges are filed together, the fine shall be \$300 per violation.

(2) (i) Except as provided in subparagraph (ii), a person who causes, permits, requires or otherwise allows another person to operate a motor carrier vehicle or a bus in violation of subsection (b)(2) commits a summary offense and, upon conviction, shall be sentenced to pay a fine of \$50 per violation, except that the minimum fine for a violation not related to driver's hours of service which causes the driver or the vehicle to be placed out of service under section 4704(c) shall be \$100 per violation. The maximum fine which may be levied on the basis of multiple charges filed together shall be \$1,000.

(ii) A person who causes, permits, requires or otherwise allows another person to operate a motor carrier vehicle, bus or school bus in violation of subsection (b)(2.1) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$300, except that, if multiple charges are filed together, the fine shall be \$600 per violation.

(3) Any person who violates subsection (b.1) as it relates to driver's hours of service commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500 per violation.

(4) The department shall coordinate with the commission in the enforcement of this subsection and 66 Pa.C.S. § 3312(a).

(e) Exception for certain frozen dessert trucks.--Any frozen dessert truck which is equipped with a side stop signal arm and flashing or revolving red or amber lights may be operated within this Commonwealth without violating the provisions of this part and sections 4552 (relating to general requirements for school buses), 4571 (relating to visual and audible signals on emergency vehicles) and 4572 (relating to visual signals on authorized vehicles) so long as the side stop signal arm and the flashing or revolving red or amber lights are not utilized or activated within this Commonwealth.

(June 19, 1985, P.L.49, No.20, eff. 60 days; Dec. 21, 1998, P.L.1126, No.151, eff. imd.; June 19, 2001, P.L.281, No.21, eff. imd.; Dec. 23, 2002, P.L.1982, No.229, eff. 6 months; July 5, 2005, P.L.100, No.37; Dec. 18, 2007, P.L.436, No.67, eff. 60 days)

2007 Amendment. Act 67 amended subsec. (d)(3).

2005 Amendment. Section 10(2) of Act 37 provided that Act 37 shall take effect 90 days after publication of a notice in the Pennsylvania Bulletin. The notice was published July 16, 2005, at 35 Pa.B. 4029.

2002 Amendment. Act 229 amended subsecs. (b) and (d). See section 21 of Act 229 in the appendix to this title for special provisions relating to promulgation of guidelines to implement Act 229.

2001 Amendment. Act 21 amended subsec. (d) and added subsec. (b.1).

1998 Amendment. Act 151 added subsec. (e).

References in Text. Section 3312(a) of Title 66 (Public Utilities), referred to in subsec. (d)(4), does not exist.

Cross References. Section 4107 is referred to in section 6309 of this title.

§ 4108. Injunctive relief.

(a) General rule.--Upon petition by the department, any court of competent jurisdiction in this Commonwealth may, for cause shown, restrain violations of this part or restrain the sale, offer for sale or use of any item of vehicle equipment which is determined to be in violation of this part or regulations promulgated pursuant thereto.

(b) Notice of contemplated action.--Whenever practicable, the department shall give notice to any person against whom an action for injunctive relief is contemplated and afford an opportunity to present views and, except in the case of a knowing and willful violation, shall afford reasonable opportunity to achieve compliance. The failure to give notice and afford such opportunity shall not preclude the granting of appropriate relief.

(c) Nonjury criminal contempt proceedings.--In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, the court shall sit without intervention of a jury. (Apr. 28, 1978, P.L.202, No.53, eff. 60 days)

1978 Amendment. Act 53 amended subsec. (a).

Cross References. Section 4108 is referred to in section 4105 of this title; section 4136 of Title 42 (Judiciary and Judicial Procedure).