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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 640
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 640's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Demetriou and Roemer

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio Environmental Protection Agency will likely experience significant administrative costs to implement an alternative program to meet E-Check standards including additional staffing dependent on the number of vehicles certified under the alternative program. Expenses will be offset to some degree by a decrease in state costs to pay for emissions testing under E-Check.
- The Bureau of Motor Vehicles may incur additional ongoing administrative costs and one-time programming costs to implement the bill's Alternative Emissions Certificate requirements and to account for additional motor vehicle exemptions from the E-Check Program.

Detailed Analysis

The bill creates an alternative method to certify compliance with the E-Check Program and eliminates the authority to declare an air pollution emergency. These changes are expected to primarily impact the Ohio Environmental Protection Agency (Ohio EPA) and the Bureau of Motor Vehicles (BMV) (within the Department of Public Safety).

Ohio Environmental Protection Agency (Ohio EPA)

The bill requires Ohio EPA to establish an alternative method for a vehicle owner to certify compliance with the E-Check Program without submitting to an E-Check emissions test, and extends the current law exemption for new cars from four to six years, or seven for hybrid vehicles.

Under current law, a vehicle owner can receive an inspection certificate by passing a vehicle emissions inspection. The bill requires Ohio EPA to establish rules providing for an alternative certification process which require the owner to complete and submit a form

attesting that the vehicle complies with all laws of Ohio and the United States governing motor vehicle emissions.

Upon receipt of the form described above, Ohio EPA is required to deliver the alternative certificate within 30 days, or five days if the form is submitted electronically. Ohio EPA is required to reject certain attestation forms for reasons specified under the bill, and a vehicle owner may resubmit a corrected form within 30 days.

The bill will create additional administrative costs for Ohio EPA to adopt rules for and maintain a program of alternative vehicle emissions certification. While some existing testing costs could be reduced, those potential savings will likely be offset by the new administrative costs associated with the alternative certification scheme. Ohio EPA anticipates that additional costs could be significant for the agency to hire new staff to process and verify attestations and to establish processes for the new program. Staffing expenses will depend on the number of people who forego an emissions test and instead use the bill's alternative method.

Background

E-Check in Ohio

The federal Clean Air Act Amendments of 1990 revised requirements for attaining and maintaining National Ambient Air Quality Standards (NAAQS) for specific criteria pollutants, including ozone and carbon monoxide. The Act was designed to bring areas with high levels of these pollutants into compliance with NAAQS. Under the Act, each state is required to devise and carry out a state implementation plan to ensure that NAAQS are met and maintained.

As part of Ohio's implementation plan, E-Check began in Ohio in January 1996 to identify motor vehicles that emit excessive levels of pollutants into the air. Vehicle emission tests are performed in seven northeastern Ohio counties: Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit. The Ohio EPA routinely certifies the testing equipment and provides public assistance by responding to requests for information, complaints about the program, and issues exemptions and extensions when appropriate. In 2021, 910,615 vehicle emission tests were performed at 23 testing stations, 18 self-service testing kiosks, and approximately 40 independent garages. Testing is provided through a contract with Envirotest Systems Corporation.

H.B. 33, the main appropriations act for FY 2024-FY 2025, appropriated a total of \$27.8 million for the biennium. This amount was expected to fully fund E-check via GRF ALI 715502, Auto Emission E-Check Program, which pays for the implementation, supervision, administration, operation, and enforcement of the program. Typically, between 85% and 90% of this line item is dedicated to purchased personal services, specifically to contract with Envirotest. The remainder of the appropriation item is allocated to personal services (payroll), and supplies and maintenance.

Noncompliance with federal air quality standards (potential impact)

Because E-Check is a component of Ohio's state implementation plan (required under the federal Clean Air Act), modifying E-Check as under the bill may require Ohio to find alternative air pollution control measures to meet the federal air quality standards. According to Ohio EPA, any change in the state's implementation plan would require approval by the U.S. EPA and lack

of approval could result in sanctions which include the potential withholding of unspecified federal highway funds.

Additionally, the U.S. EPA can impose requirements for new major source polluters in nonattainment areas. Under current law, the minimum offset ratio is 1.15 to 1.0 meaning that new major source polluters¹ must prove 1.15 tons of emission reduction or offset credits for every 1.0 ton of air pollution produced. If the state is found to be out of compliance with the implementation plan, U.S. EPA can increase the offset to 2.0 to 1.0.

Bureau of Motor Vehicles

Under continuing law, an applicant for vehicle registration or renewal who resides in an E-Check county is required to have their vehicle tested biennially and to present a certificate of inspection compliance, exemption, extension, or waiver at the time of registration or renewal. The bill creates an Alternative Emissions Certificate (AEC) and requires the Registrar of Motor Vehicles to (1) accept an AEC in lieu of an inspection certificate, and (2) ensure that owners registering their motor vehicles in E-Check counties receive information about the AEC process. The bill also makes and expands certain exemptions regarding vehicle registration under the E-Check Program.

As a result, the BMV, which currently sends and receives certain E-Check Program information via an application programming interface (API) with Ohio EPA, may incur additional one-time programming costs to update certain documents and information as it pertains to the API. The magnitude of any costs incurred will depend on how these changes are ultimately implemented. The BMV may incur additional minimal ongoing administrative costs to implement the bill's AEC requirements and account for the additional E-Check Program exemptions.

Office of the Governor

The bill's elimination of the Governor's authority to declare an air pollution emergency will not result in any additional costs.

¹ A new major source in a nonattainment area is one that has the potential to emit more than 100 tons of air pollutants per year.