



**CALIFORNIA
AIR RESOURCES BOARD
Compliance Division**

ADVISORY

(REGULATION CHANGES)

Number 61

December 3, 1990

**AB 911 - New Legislation Affecting Penalties for
Mobile Source Visible Emission Violations**

Attached is a copy of Assembly Bill (AB) 911 which was approved by the Governor on July 18, 1990 and becomes law on January 1, 1991. AB 911 amends Section 42001.2 of the Vehicle Code. It will apply to infractions involving the operation of a motor vehicle in a manner resulting in excessive emissions of smoke, flame, gas, oil, or fuel residue. The following is a brief comparison between the existing and amended Section 42001.2.

PENALTY SCHEDULE

	Vehicle Gross Weight Greater Than 6001 lbs	Vehicle Gross Weight Less Than 6001 lbs
EXISTING	\$0 - \$1500	1ST OFFENSE \$0 - \$100 2ND OFFENSE \$0 - \$200 3RD OFFENSE \$0 - \$250
AMENDED	1ST OFFENSE \$250 - \$2500 2ND OFFENSE \$500 - \$5000 & SUBSEQUENT OFFENSES	1ST OFFENSE NOTICE TO CORRECT 2ND OFFENSE \$100 - \$250 & SUBSEQUENT OFFENSES

Amended bill also requires the fines to be allocated as follows:

- 25 Percent Prosecuting Agency
- 25 Percent Enforcement Agency *
- 50 Percent APCD/AQMD where Violation Occurred

* If this is the California Highway Patrol, the revenues shall be allocated 50 percent to the prosecuting agency and 50 percent to the district in which the violation occurred.

We recommend that you review the specific language of this bill and inform your staff about the changes.

If you have any questions about these changes or need additional information, please call the Air Resources Board, Compliance Division at (800) 952-5588.

Enclosure

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Assembly Bill No. 911

CHAPTER 367

An act to amend Section 42001.2 of the Vehicle Code, relating to air pollution.

[Approved by Governor July 18, 1990. Filed with Secretary of State July 19, 1990.]

LEGISLATIVE COUNSEL'S DIGEST

AB 911, Katz. Air pollution.

Under existing law, it is an infraction to operate a motor vehicle in a manner resulting in excessive emissions of smoke, flame, gas, oil, or fuel residue. It is an infraction, subject to a fine not exceeding \$1,500, to discharge, below an elevation of 4,000 feet, any air contaminant which exceeds prescribed standards, from a vehicle with a gross weight rating of 6,001 or more pounds; and a violation of those provisions in any other vehicle is an infraction punishable pursuant to provisions applicable to infractions generally (\$100 maximum for a 1st offense, \$200 maximum for a 2nd offense within one year, and \$250 maximum for a 3rd or subsequent offense within one year).

This bill would, instead of that \$1,500 fine, prescribe a fine of not less than \$250 nor more than \$2,500 for a 1st offense, and not less than \$500 nor more than \$5,000 for a 2nd or subsequent offense within one year. The bill would prescribe a fine of not less than \$100 nor more than \$250 for a 2nd or subsequent violation, in a vehicle with a gross vehicle weight rating of less than 6,001 pounds, of either the provisions regarding the 4,000 feet elevation or the provisions relating to excessive emissions of smoke, flame, gas, oil, or fuel residue; and for the failure to correct or deliver proof of correction of either violation when a notice to correct was issued and the person was previously convicted of the same offense. The bill would limit the penalties for a 2nd or subsequent offense to violations involving the same vehicle. The bill would require the fines to be allocated to designated agencies.

The people of the State of California do enact as follows:

SECTION 1. Section 42001.2 of the Vehicle Code is amended to read:

42001.2. (a) Every person convicted of an infraction for a violation of Section 27153.5 with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of 6,001 or more pounds shall be punished by a fine for the first offense of not less than two hundred fifty dollars (\$250) and not more than two thousand five hundred dollars (\$2,500), and for a second or

subsequent offense within one year of not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000).

(b) Every person convicted of an infraction for a second or subsequent violation of Section 27153, or a second or subsequent violation of 27153.5, with a motor vehicle having a manufacturer's maximum gross vehicle weight rating of less than 6,001 pounds, shall be punished by a fine of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

(c) Notwithstanding Section 40616, the penalties in subdivision (b) apply when a person is guilty of willfully violating a written promise to correct, or willfully failing to deliver proof of correction, as prescribed in Section 40616, when an offense described in subdivision (b) was the violation for which the notice to correct was issued and the person was previously convicted of the same offense, except that costs of repair shall be limited to those specified in Section 44017 of the Health and Safety Code.

(d) Revenues collected from fines imposed under this section shall be allocated as follows: 25 percent to the prosecuting agency, 25 percent to the enforcement agency, except the Department of the California Highway Patrol, and 50 percent to the general fund of the air quality management district or air pollution control district in which the infraction occurred. If the enforcement agency is the Department of the California Highway Patrol, the revenues shall be allocated 50 percent to the prosecuting agency, and 50 percent to the district in which the infraction occurred.

(e) For the purposes of subdivisions (a), (b), and (c), a second or subsequent offense does not include an offense involving a different motor vehicle.

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