

SUBPART 218-2**CERTIFICATION AND PROHIBITIONS**

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Historical Note

Subpart (§ 218-2.1) filed Oct. 23, 1990; repealed, new (§§ 218-2.1 — 218-2.2) filed April 28, 1992 eff. 30 days after filing.

§ 218-2.1 Prohibitions.

(a) It is unlawful for any person to sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a 1993, 1994, 1996, or subsequent model-year, new or used motor vehicle, new motor vehicle engine or motor vehicle with a new motor vehicle engine in the State of New York which is not certified to California emission standards and meets all other applicable requirements of California Code of Regulations, title 13, sections 1956.8, 1956.9, 1960.1, 1960.1.5, 1960.5, 1961, 1962, 1964, 1965, 1968.1, 1976, 1978, 2030, 2031, 2047, and 2235 (see Table 1, section 200.9 of this Title) and is otherwise not in compliance with the Environmental Conservation Law and these departmental regulations, unless the vehicle is sold to another dealer, sold for the purpose of being wrecked or dismantled, sold exclusively for off-highway use or sold for registration out of state. Vehicles that have been certified to standards promulgated pursuant to the authority contained in 42 USC 7521 (see Table 1, section 200.9 of this Title) and that are in the possession of a rental agency in New York that are next rented with a final destination outside of New York will not be deemed as being in violation of this prohibition.

(b) This Subpart does not apply to:

(1) a vehicle acquired by a resident of this State for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen; or

(2) a vehicle transferred by inheritance; or

(3) a vehicle transferred by court decree; or

(4) any vehicle sold after the effective date of this Subpart if the vehicle was registered in this State before such effective date; or

(5) any motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. section 7401 *et seq.*) (see Table 1, section 200.9 of this Title) and originally registered in another state by a resident of that state who subsequently establishes residence in this State and who upon registration of the vehicle in this State provides satisfactory evidence to the New York State Department of Motor Vehicles of the previous residence and registration; or

(6) emergency vehicles; or

(7) military tactical vehicles and equipment; or

(8) vehicles exempted by California Health and Safety Code, section 43656. (See Table 1, section 200.9 of this Title.)

(c) *Transfer to ultimate purchaser.* For purposes of this Subpart, it is conclusively presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to any motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

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(d) In accordance with 42 USC 7507 (see Table 1, section 200.9 of this Title) under no circumstances will a New York State action require the conversion of a vehicle to a standard different from that to which it is certified for sale in California.

Historical Note

Sec. filed Oct. 23, 1990; repealed, new filed April 28, 1992; amd. filed Nov. 28, 2000 eff. 30 days after filing. Amended (a)-(b).

§ 218-2.2 Reporting.

(a) *Certification reporting.* (1) The manufacturer will submit one copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in New York State to the department within 30 days of receiving the Executive Order from CARB.

(2) For the purposes of determining compliance with this Part, the department may require any vehicle manufacturer subject to this Part to submit any documentation the department deems necessary to the effective administration and enforcement of this Part including all certification materials submitted to CARB.

(b) *Offset vehicle reporting.* Commencing with the 1996 model-year, by March 1st of the calendar year succeeding the end of the model-year, each manufacturer shall report to the department the number of offset vehicles, broken down by model type, delivered for sale in New York during such model-year. Such report shall also include the total number of manufacturer's fleet delivered for sale in New York.

Historical Note

Sec. filed April 28, 1992; repealed, new filed Nov. 28, 2000 eff. 30 days after filing.

§ 218-2.3 Enforcement.

(a) The commissioner or a designee may enter and inspect a facility operated by a party subject to the requirements of this Part, any property, premises, books, papers, documents, or records (written and/or electronic) of that facility, at all reasonable times, locations, and hours, whether announced or unannounced, for the purpose of ascertaining compliance or noncompliance with the ECL and this Title. The conduct of operations subject to the provisions of this Part in this State is deemed to constitute consent to such an inspection.

(b) For the purpose of developing or assisting in the development of any regulation or enforcing the provisions of this Part, any person subject to the provisions of this Part must, upon oral or written request of any officer or employee of the department, when properly identified and duly designated by the commissioner, furnish or permit such officer or employee at all reasonable times to have access to, and to copy all records relating to those parties which are subject to this Part.

(c) Unless otherwise specified in the ECL or regulations, any person subject to the provisions of this Part must retain all relevant records for at least three years from the creation of those records.

Historical Note

Sec. filed Nov. 28, 2000 eff. 30 days after filing.