

New Advanced Clean Truck Rules Will Impact Mass. Dealers

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In recent months, auto dealers and officials across various industries in Massachusetts have expressed concern over the looming deadline for the implementation of the Advanced Clean Truck (ACT) and the Heavy-Duty Omnibus (HDO) rules which are scheduled to go in effect in Massachusetts on January 1, 2025. These rules require that manufacturers sell an increasing number of zero emission medium- and heavy-duty vehicles greater than 8,500 pounds GVWR, from 2024 to 2035. The implementation of these rules as scheduled will have a major impact on Massachusetts automobile dealers as well as unintended consequences for the transportation sector as a whole.

In 1991, the Massachusetts Legislature passed Mass. Gen. Laws. Ch. 111, § 142K to reduce emissions produced by motor vehicles, including automobiles, as well as medium- and heavy-duty trucks. The statute requires the adoption of California's standards for motor vehicle emissions as long as those standards achieve greater emission reductions than federal standards. It also prevents auto dealers and other manufacturers from selling or offering for sale a motor vehicle or motor vehicle engine that is not compliant with California's standards during or after the first model year that the motor vehicle standards are in effect. Violators face stiff fines and possible criminal penalties.

Pursuant to this statute, the Massachusetts Department of Environmental Protection enacted regulations under 310 CMR 7.40 to reduce emissions of pollutants and greenhouse gases from on-road vehicles to help mitigate climate change and improve air quality. In 2021, the Department of Environmental Protection amended these regulations and adopted California's regulations under the ACT and the HDO rules. The ACT rule requires medium- and heavy-duty vehicle manu-

facturers to sell zero-emission vehicles as an increasing percentage of their annual sales through 2035, while the HDO rule sets stricter standards for NOx and PM emissions. These regulations would result in greater emission reductions than the federal standards.

Although MGL Ch. 111, § 142K does not set a timeframe for implementation of the HDO and ACT rules, the regulations amended by the Commonwealth require adherence to California's stricter standards starting in 2025. This will have a significant negative effect on Massachusetts auto dealers because manufacturers have not yet developed enough trucks to meet demand. Further, small business dealerships for medium- and heavy-duty trucks likely will not be able to meet the required sales mandate. Trucking companies will be disincentivized to purchase compliant trucks from them because they are more expensive and there is not a reliable network of charging stations. This is likely to result in fleet owners keeping older, less energy efficient vehicles on the road for a longer period of time, which will counteract the regulations' underlying goal of reducing emissions.

Due to a number of issues with the implementation of these rules, the MSADA is advocating for a delay in the enforcement of these regulations until 2027. In its joint letter with the Trucking Association of Massachusetts (TAM), the MSADA outlines three major issues with the implementation of these regulations: (1) Massachusetts does not currently have enough public or private charging stations for commercial vehicles; (2) the cost of a compliant vehicle is significantly higher than a comparable diesel truck and there are not enough vehicles available for purchase; and (3) Massachusetts will lose sales tax revenue.

Both organizations emphasized that

they are fully in support of the efforts to reduce emissions in the transportation sector; however, they are both wary of the effects of these regulations as Massachusetts does not currently have the technology and infrastructure needed for the regulations to not have disastrous effects on the transportation sector and all other industries relying on it. Therefore, they argue that delaying the enforcement of these regulations until 2027 is more practical because 2027 is the year that the EPA and CARB are in agreement over common emissions standards, and because it will allow Massachusetts time to develop infrastructure to support these regulations.

Thirty-eight members of the Massachusetts House of Representatives also sent a letter to the Governor and the Secretary of the Executive Office of Energy and Environmental Affairs raising similar concerns. Like the MSADA and TAM, the representatives are concerned that Massachusetts does not have the infrastructure to support adherence to these requirements. They note that if this regulation is implemented on January 1, 2025, its effect actually may slow the reduction of emissions, while having a large, negative impact on many industries across both the private and public sectors. Like the MSADA, they ask that the Governor move back the implementation date to January 1, 2027.

If these regulations are enforced in January 2025, auto and truck dealers in Massachusetts will need to make sure that they understand the complex requirements and develop a plan to become compliant. ♦

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