

California Air Resources Board Enforcement Advisory**Specially Constructed and Senate Bill 100 Motor Vehicles in California:***Certification Requirements for Motor Vehicles and Motor Vehicle Engines for Registration in California*

The purpose of this advisory is to (1) describe the law as it pertains to Specially Constructed (SPCN) motor vehicles and their eligibility for registration in California, and (2) describe how the California Air Resources Board (CARB) conducts enforcement investigations regarding SPCN motor vehicles. This advisory provides a general overview and description of the relevant California law, but does not, and is not intended to, cover all possible enforcement circumstances. All enforcement determinations are made on a case-by-case basis. A summary of this advisory is as follows:

- CARB enforces against any person that offers for sale, introduces into commerce, imports, delivers, purchases, rents, leases, acquires, or receives a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in California unless the motor vehicle engine or motor vehicle has been certified by CARB. CARB also enforces against any person attempting or assisting in any such action.
- Manufacturers, wholesalers, distributors, dealers, retailers, installers, and/or repair shops or facilities may build and sell uncertified vehicles if those vehicles are racing vehicles. The racing vehicle exemption in California law exempts racing vehicles from vehicle emissions control requirements and defines a racing vehicle as a competition vehicle not used on a public highway.
- Senate Bill 100 provides a pathway for Smog Check compliance for a limited number of motor vehicles. Qualifying vehicles must be built for private use, not for resale, and may not be constructed by a licensed manufacturer or remanufacturer.
- CARB will enforce against companies who produce uncertified motor vehicles, install uncertified motor vehicle engines for a consumer, as well as any company that attempts or assists any prohibited action.
- Violations are subject to penalties up to \$47,363¹ per violation, as well as the subject vehicle(s) being ineligible for registration with the Department of Motor Vehicles.

¹ Updated annually according to the California Consumer Price Index (CCPI). See Health & Safety Code § 43154, [CCPI Adjustment Memo](#).

Background

The federal Clean Air Act requires the State of California to meet National Ambient Air Quality Standards. California's motor vehicle emissions control program consists of two fundamental components—CARB's mobile source certification program and the vehicle inspection and maintenance program implemented by the Bureau of Automotive Repair (BAR). CARB's certification program applies to new vehicles, while BAR's inspection and maintenance program—also known as the Smog Check Program—applies to vehicles manufactured after the 1975 model year to ensure those vehicles continue to meet emission standards in-use and throughout their useful life. These programs are each critically necessary to achieve compliance with the federal Clean Air Act.

California law requires all new motor vehicles to be certified by CARB as compliant with all applicable emission standards. (see Health & Safety Code §§ 43150 et seq.) California law also requires most registered motor vehicles to undergo a Smog Check inspection biennially and at change-of-ownership. (see Health & Safety Code §§ 44011 et seq.) Motor vehicles certified by CARB are granted an Executive Order (EO) as evidence of certification; on the other hand, satisfying a Smog Check inspection results in a "certificate of compliance."

Senate Bill 100 (Johannessen, Stats. 2001, ch. 871) (SB 100) adopted Health and Safety Code (HSC) section 44017.4 and made changes to the Smog Check program to clarify the Smog Check inspection requirements applicable to SPCN motor vehicles. Notably, SB 100 and the referee inspection procedure to determine Smog Check applicability did not change existing California certification requirements for all new motor vehicles and new motor vehicle engines. SB 100 does not supersede, override, or otherwise affect those statutory requirements; it only provided an inspection procedure and path for Department of Motor Vehicle (DMV) registration regarding Smog Check requirements for qualifying SPCN motor vehicles. CARB certification requirements for new motor vehicles and new motor vehicle engines are applicable to SPCN motor vehicles and SB 100 motor vehicles.

To register a motor vehicle with the DMV, it must comply with Part 5 (commencing with section 43000) of Division 26 of the Health and Safety Code, including sections 43150 et seq. (see Vehicle Code § 4750). A new motor vehicle or a motor vehicle with a new motor vehicle engine that is not CARB certified does not comply with California law and is not eligible for registration. Furthermore, a passenger vehicle or pickup truck seeking registration through SB 100 must meet all other qualifications of Vehicle Code section 580 to be eligible for registration, including that it is built for private use, not for resale, and is not constructed by a licensed manufacturer or remanufacturer.

CARB has an established certification process for light-duty engine packages for SPCNs. Certified engine packages must meet the requirements in California Code of Regulations (CCR), title 13, sections 2210-2218 and be covered by a CARB EO. Additionally, CARB's Specially Produced Motor Vehicle (SPMV) regulation (Cal. Code Regs., tit. 13 §§ 2209-2209.10) established a certification process for complete light-duty replica motor vehicles. New complete replica motor vehicles are certified to current model year emission standards as SPMVs and are covered by a CARB EO. Either path may ultimately produce emission compliant new motor vehicles.

SB 100 is not applicable for competition/racing vehicles, which cannot be used or operated on public highways.²

Non-Compliant Practices

CARB has encountered certain practices that do not comply with CARB's certification requirements:

- Selling, offering for sale, delivering, or introducing into commerce complete, uncertified motor vehicles, often with separate invoicing for the rolling chassis and uncertified new motor vehicle engine;
- Importing and delivering foreign manufactured vehicles, either disassembled or complete;
- Selling, offering for sale, delivering, or introducing into commerce uncertified new motor vehicle engines, often including installation; or
- Assisting with the registration of uncertified motor vehicles.

In the above examples, the consumer is ultimately delivered, through one or several transactions, a complete, new, uncertified motor vehicle, and the consumer then attempts to register it as an SB 100 or SPCN vehicle. These activities fall outside the scope of SB 100 and undermine CARB's certification programs.

Manufacturers, Distributors, and Dealers

Manufacturers, distributors, dealers, or any person who is engaged in the State of California in the business of selling, renting, or leasing new motor vehicles or new motor vehicle engines to an ultimate purchaser are in violation of California law if they offer for sale, introduce into commerce, import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in California that is not certified.

² Further information is available in CARB's [Competition Vehicle Advisory](#).

Enforcement

The magnitude of penalties and liability for violations generates a substantial risk for any business participating in the SPCN/SB 100 motor vehicle market in California. In enforcing California law, CARB encourages companies to minimize their risk of an enforcement action for non-compliance. CARB resolves cases using its [Enforcement Policy](#), which lists additional factors CARB considers, including voluntary disclosures. CARB considers the totality of the circumstances when exercising enforcement discretion and considers the actions a business proactively took to minimize non-compliance. Where there is a violation, CARB measures the severity of the violation by considering all relevant facts and circumstances of each case, including eight statutory factors required by law (Health & Safety Code § 43024).

While not a requirement, some businesses have found the following practices help minimize the possibility of unintentionally violating the law:

- Purchase, offer for sale, and sell only CARB certified engine packages for installation into a vehicle that will seek registration from DMV as a SPCN or SB 100 motor vehicle.
- If installing an engine without CARB certification provided by a customer, retain documentation that the vehicle is a competition vehicle and will not seek registration from DMV or be operated on public highways.
- Purchase, offer for sale, and sell only CARB certified SPMVs.

The actions described above can include a range of information showing the new motor vehicle or new motor vehicle engine is compliant. Taking the above actions will not absolve businesses conducting a prohibited action from liability under California law, including attempting or assisting such action, but could be considered under the existing eight statutory factors in the ultimate resolution.

Any person attempting or assisting, is potentially liable if they offered for sale, introduced into commerce, imported, delivered, purchased, rented, leased, acquired, or received a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in California that is not certified. Violations are subject to increased penalties up to \$45,563 per violation (Health & Safety Code § 43154 + CCPI increases).

For information regarding this advisory or to provide information about possible violations, please contact Tampering@arb.ca.gov.

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This advisory only explains the statutes and regulations and does not alter, limit, expand, amend, waive, or modify the laws in any way. It does not impose any additional requirements, is not a regulation, provide any options for alternative relief or safe harbor from potential violations, and does not constitute legal advice. In the event of any conflicting interpretation, the statutes and regulations control.