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Sportster History - Sub-01F

Harley Davidson and the United States Clean Air Act of 1978

Under provisions of the U.S. Clean Air Act, all street-legal motorcycles manufactured after December 31, 1977 must comply with Federal Environmental Protection Agency (EPA) and California emissions regulations. The purpose of these regulations is to reduce air pollution eliminating crankcase emissions and controlling exhaust emissions to specified limit for the useful life of the motorcycle. ¹⁾

It was unnecessary to provide any special emission control devices such as a catalytic converter since EPA compliance was achieved by design modifications and operating and service procedure changes. ²⁾

Accordingly, engine modifications were made in 4-cycle models to reduce emissions and these models were approved for production by the Environmental Protection Agency. ³⁾

- Changes include:
 - A new recalibrated carburetor with tighter quality control, high and low idle feature, and an improved fast idle choke mechanism. ⁴⁾
 - A transistorized, breakerless, solid state ignition system. ⁵⁾
 - A closed crankcase breather system.
 - Modified air intake with a new high-capacity air cleaner.
 - Modified exhaust systems.
- Changes to meet the standards result in better, smoother performance as well as lower emissions. ⁶⁾
- 1200cc production models beginning in January 3, 1978 (60,000 H8 →), were EPA certified and carry the year mark as 1978-1/2 models. However, the 1978-1/2 FLH/FX models were not yet EPA certified for the liberator fairing, pulling a sidecar or a trailer and had to maintain the Gross Vehicle Weight Rating (GVWR), which is printed on a label located on the frame front down tube. ⁷⁾

Emission Control System Warranty

- Each motorcycle was warranted to be free from defects in material and workmanship which would cause emissions levels to exceed EPA standards for a period of 5 years or 18,641 miles (30,000 kilo meters) from delivery date, whichever came first. The emission control system warranty is separate from the standard new motorcycle limited warranty. ⁸⁾
 - Most all parts, including emissions related, were covered by the standard limited warranty up

to 6 months or 6,000 miles from date of delivery. Beyond this period up to 18,641 miles or 5 years, emissions related parts were covered by the emission control system warranty.

- Emission warranty claims were provided for obvious related emission controls (as in a faulty crankcase breather hose) but not for something like a connecting rod failure.⁹⁾
- Apparent non-compliance with EPA Standards arising from failure to perform specified maintenance was not covered by the emission warranty.

Maintenance and Parts

- Proper service is essential to keep motorcycle emissions within normal limits. Service and maintenance procedures for the original emission controls built into the motorcycle were specified in the owner's manuals, warranty and maintenance booklets.¹⁰⁾
 - Service intervals changed from 1,000 mile intervals to 1,250 mile intervals and new service procedures for the carburetor and ignition system were added.
 - Higher than allowed emission issues include, misfiring, poor compression, improper ignition, poor timing, poor ignition spark, excessively rich or lean fuel mixture, high oil consumption and / or other tuning issues.
 - At the time, the EPA had not established regulations for a quick field test to measure emissions so it might be difficult to prove emission failure with reliable test data. So, there was no need for dealers to physically test for emission quality. If factory specs were followed and OEM parts (or equal) were used as replacements, the motorcycle met emission standards (when engine performance was normal). With poor engine performance, emissions will likely be excessive until service is performed to produce a normal running engine.
- HD continued to recommend that maintenance be performed by a certified HD dealership using genuine Harley-Davidson replacement parts as noticed in the owner's manuals and paperwork.¹¹⁾
 - This notice also states that maintenance may be performed by other qualified service outlets using aftermarket parts as long as the parts are EPA certified for the purpose used. The EPA had not set up a separate parts certification procedure. However, it was understood from the EPA that non-Harley-Davidson parts may be used, only if the dealer or mechanic (not Harley-Davidson) can certify that such parts are equivalent in function to OEM parts and would not cause the motorcycle to fail to meet emissions standards. So, even though such parts may be used for EPA compliance, the MoCo established the policy that all warranty service would be performed with genuine Harley-Davidson parts.

Tampering with the Emission System

- Under the anti-tampering provisions of EPA regulations, the replacement or alteration of emission related components outside of factory specifications was prohibited. John Davidson sent a letter, dated January 3, 1978, to dealers suggesting they review and adhere to the new EPA regs so as not to be exposed to liability for any violations of the tampering thereof.¹²⁾
 - Additionally, to strictly avoid any direct acts of tampering, dealers and their mechanics were warned to be careful to avoid possible association / participation in tampering violations by maintaining a clear record of any motorcycle which has been tampered with by others to

serve as evidence that Harley-Davidson dealers and mechanics did not participate in such tampering.

- It will be illegal to make certain modifications to emissions certified vehicles. ¹³⁾
- Section 203 (a) (3) (A) of the Clean Air Act prohibits:
 - *any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or* ¹⁴⁾
 - “(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading of motor vehicles or motor vehicle engines, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser.” ¹⁵⁾
- The Clean Air Act established penalties up to \$10,000 for each violation by a dealer and up to \$2,500 for each violation by independent mechanics, speed shops, etc. Section 205 reads: ¹⁶⁾
 - “Any manufacturer, dealer or other person who violates paragraph (3) (A) of section 203 (a) shall be subject to a civil penalty of not more than \$10,000. Any person who violates paragraph (3) (B) of section 203 (a) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3) or (4) of section 203 (a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.”
- The “devices or elements of design” (emissions related components) include basic engine components such as the pistons, cylinders, cylinder heads, valves, cams, intake manifold and carburetor, air cleaner, exhaust pipes and mufflers. Modifications to these components may be considered as “Tampering” and could constitute a violation of the Clean Air Act. ¹⁷⁾
- The Clean Air Act didn't prohibit repairs to motorcycles. However, adjustments, repairs, or replacements couldn't result in significant (out of spec) changes to any emissions related components. In general, any adjustments, repairs or replacements to emissions related components described in the FSM can be considered to be in compliance with the Clean Air Act. It was suggested that adjustments, repairs or replacements not covered in Harley-Davidson literature should be approached with caution. ¹⁸⁾
- The Act did not apply to motorcycles built before January 1, 1978. But, it was expected that EPA Enforcement groups would be actively searching for instances of tampering on all models built after January 1st. ¹⁹⁾

Clean Air Act Settlement 2016

(article from the EPA website, last updated October 28,2022) ²⁰⁾

(Washington, DC) The U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) reached a settlement with Harley-Davidson, Inc., Harley-Davidson Motor Company Group, LLC, Harley-Davidson Motorcycle Company, Inc., and Harley-Davidson Motor Company Operations, Inc. (collectively Harley-Davidson), that requires the companies to stop selling and to buy back and destroy illegal tuning devices that increase air pollution from their motorcycles, and to sell only tuning devices

that are certified to meet Clean Air Act emissions standards. Harley-Davidson will also pay a \$12 million civil penalty.

Violations

EPA alleges that Harley-Davidson violated the Clean Air Act by manufacturing and selling about 340,000 devices, known as tuners, that allow users to change how a motorcycle's engine functions. These changes can cause the motorcycles to emit higher amounts of certain air pollutants than they would in the original configuration that Harley-Davidson certified with EPA.

Harley-Davidson also manufactured and sold more than 12,000 motorcycles that EPA alleges did not undergo proper EPA certification to ensure they meet federal clean air standards.

Injunctive Relief

Under the settlement, Harley-Davidson:

Will immediately stop selling the tuners, buy back all of the tuners in stock at their dealerships and destroy the tuners. obtain certification from the California Air Resources Board for any tuners it sells in the future. These certifications will demonstrate that new tuners do not cause their motorcycles to exceed their certified emissions limits. will conduct tests on tuner-equipped motorcycles and provide the results to EPA to guarantee that their motorcycles remain in compliance with EPA certification requirements for emissions. will also ensure that all of its future motorcycle models intended for sale in the United States are fully certified by EPA.

Pollutant Impacts

Prior to the settlement, Harley-Davidson manufactured and sold two types of tuners, which when hooked up to Harley-Davidson motorcycles, allow users to modify certain aspects of a motorcycles' emissions control system. These modified settings increase power and performance, but also increase the motorcycles' emissions of hydrocarbons and nitrogen oxides (NOx). Hydrocarbon and NOx emissions contribute to harmful ground-level ozone, and NOx also contributes to fine particulate matter pollution.

Health Effects and Environmental Benefits

Exposure to ozone and particulate matter pollution has been linked with a range of serious health effects, including increased asthma attacks and other respiratory illnesses. Exposure to these pollutants has also been associated with premature death due to respiratory-related or cardiovascular-related effects. Children, the elderly, and people with pre-existing respiratory disease are particularly at risk of health effects from exposure to these pollutants.

By reducing the chance that Harley-Davidson motorcycles produce emissions above their legally certified levels, this agreement contributes to state and federal efforts to meet air quality standards for ozone and particulate matter.

Civil Penalty

Harley-Davidson will pay a \$12 million civil penalty.

Comment Period

The proposed settlement, lodged in the U.S. District Court for the District of Columbia in July 2017, was the subject of a 30-day public comment period and is subject to final court approval. Public comment was also received on a prior version of this settlement, which was announced in August 2016.

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HD letter to dealers dated January 3, 1978

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<https://www.epa.gov/enforcement/harley-davidson-clean-air-act-settlement>

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