

AMENDED IN SENATE JUNE 23, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 21, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2289

Introduced by Assembly Member Eng

February 18, 2010

An act to amend Sections 44010.5, 44012, 44014, 44014.2, 44014.5, 44015, 44024.5, 44036, 44052, 44055, and 44056 of, to add Sections 44001.1 and 44014.6 to, to repeal Sections 44050.5, 44051.5, 44053, and 44054 of, and to repeal and add Sections 44050 and 44051 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2289, as amended, Eng. Smog check program: testing: penalties.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The smog check program provides for the inspection of a motor vehicle, among other circumstances, upon its initial registration, upon transfer of ownership, and for vehicles registered in certain areas of the state, biennially upon renewal of registration. Existing law requires the smog tests to include, at minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed testing in all other program areas, and a visual or functional check of emission control devices specified by the department.

This bill would *require the department to implement testing using on-board diagnostic systems, in lieu of loaded mode dynamometer or 2-speed idle testing, only on model year 2000 and newer vehicles,*

beginning no earlier than January 1, 2013, and otherwise authorize the department, in consultation with the State Air Resources Board, to determine the appropriate test procedures, as specified.

The bill would authorize the department to adopt, by regulation, a process by which vehicles that present prohibitive or unusual inspection circumstances are inspected by referees, as provided. A referee would be authorized to charge a fee sufficient to cover the costs of providing certain referee services.

The bill would ~~authorize~~ *require* the department to issue inspection-based performance standards that stations would be required to meet to be eligible to issue certificates of compliance or noncompliance for certain vehicles.

The bill would make other changes to the department’s authority with respect to the smog check program, including requirements relating to testing equipment and motor vehicle emission data.

(2) Existing law authorizes the Department of Consumer Affairs to issue a citation to a smog check station or technician that may specify certain civil penalties.

This bill would repeal this provision and related provisions specifying the circumstances in which such a citation may be issued and certain minimum and maximum amounts for civil penalties. It would, instead, authorize the department to issue a citation to a licensee, contractor, or fleet owner for a violation of smog check requirements. The citation could contain an order of abatement or the assessment of an administrative fine between \$100 and \$5,000, or both, meeting specified requirements. The bill would make other changes to smog check penalty provisions, including authorizing civil penalties up to \$5,000 for a violation of smog check requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 44001.1 is added to the Health and Safety
- 2 Code, to read:
- 3 44001.1. (a) The Legislature finds and declares that additional
- 4 reductions of motor vehicle emissions could be achieved by
- 5 effective repairs to motor vehicle emission control components.
- 6 (b) It is the intent of the Legislature that the department work
- 7 with the California Community Colleges and other training

1 institutions to identify funding mechanisms that encourage the
2 development of innovative training programs for motor vehicle
3 technicians that focus on reducing air pollution from vehicles
4 needing repair and ~~that~~ to increase the number and skill level of
5 motor vehicle technicians.

6 SEC. 2. Section 44010.5 of the Health and Safety Code is
7 amended to read:

8 44010.5. (a) The department shall implement a program with
9 the capacity to commence, by January 1, 1995, the testing at
10 test-only facilities, in accordance with this chapter, of 15 percent
11 of that portion of the total state vehicle fleet consisting of vehicles
12 subject to inspection each year in the biennial program and that
13 are registered in the enhanced program area, as established pursuant
14 to paragraph (1) of subdivision (a) of Section 44003.

15 (b) (1) The department shall increase the capacity of the
16 program so that the capacity exists to commence, by January 1,
17 1996, the testing at test-only facilities of that portion of the state
18 vehicle fleet that is subject to inspection and is registered in the
19 enhanced program area, which is sufficient to meet the emission
20 reduction performance standards established by the United States
21 Environmental Protection Agency in regulations adopted pursuant
22 to the Clean Air Act Amendments of 1990, taking into account
23 the results of the pilot demonstration program established pursuant
24 to Section 44081.6.

25 (2) Upon increasing the capacity of the program pursuant to
26 paragraph (1), the department shall afford smog check stations
27 that are licensed and certified pursuant to Sections 44014 and
28 44014.2 the initial opportunity to perform the required inspections.
29 The department shall adopt, by regulation, the requirements to
30 provide that initial opportunity.

31 (3) If the department determines that there is an insufficient
32 number of licensed test-only smog check stations operating in an
33 enhanced area to meet the increased demand for test-only
34 inspections, the department may increase the capacity of the
35 program by utilizing existing contracts.

36 (c) The program shall utilize the testing procedures described
37 in Section 44012. ~~Beginning January 1, 2013, vehicles~~ *Vehicles*
38 selected for testing pursuant to this section shall include vehicles
39 equipped without second generation on-board diagnostic systems
40 (OBD II) and vehicles with emission problems that may not be

1 adequately detected by the vehicle's OBD II, as determined by the
2 department in consultation with the state board. The department,
3 in consultation with the state board, may also select for testing
4 pursuant to this section any other vehicles necessary in order to
5 meet the requirement described in paragraph (1) of subdivision
6 (b).

7 (d) Vehicles that are not diesel-powered in the enhanced
8 program area which are not subjected to the program established
9 by this section may be tested at smog check stations licensed
10 pursuant to Section 44014 that use loaded mode dynamometers.
11 Diesel-powered vehicles in the enhanced program area that are
12 not subjected to the program established by this section may be
13 tested at smog check stations licensed pursuant to Section 44014
14 using appropriate testing procedures as determined by the
15 department.

16 (e) (1) The department may implement the program established
17 pursuant to subdivision (a) through a network of privately operated
18 test-only facilities established pursuant to contracts to be awarded
19 pursuant to this section.

20 (2) The initial contracts awarded pursuant to this section shall
21 terminate not later than seven years from the date that the contracts
22 were executed.

23 (f) No person shall be a contractor of the department for
24 test-only facilities in all air basins, exclusively, where the enhanced
25 program is in effect unless the department determines, after a public
26 hearing, that there is not more than one qualified contractor. The
27 South Coast Air Basin shall have at least two contractors, and the
28 combined enhanced program area that includes Bakersfield, Fresno,
29 and Sacramento shall have at least two contractors. The department
30 may operate test-only facilities on an interim basis while
31 contractors are being sought.

32 (g) (1) In awarding contracts under this section, the department
33 shall request bids through the issuance of a request for proposal.

34 (2) The department shall first determine which bidders are
35 qualified, and then award the contract to the qualified bidder, giving
36 priority to the test cost and convenience to motorists.

37 (3) The department shall provide a contractual preference, as
38 determined by the department, not to exceed 10 percent of the total
39 proposal evaluation score, based on the following factors:

1 (A) Up to 5 percent to bidders providing firm commitments to
2 employ businesses that are licensed or otherwise substantially
3 participating in the smog check program after January 1, 1994.

4 (B) Up to 5 percent to bidders based on the extent to which
5 bidders maximize the potential economic benefit of the smog check
6 program on this state over the term of the contract. That potential
7 economic benefit shall include the percentage of work performed
8 by California-based firms, the potential of the total project
9 workforce who will be California residents, and the percentage of
10 subcontracts that will be awarded to California-based firms.

11 (4) Any contract executed by the department for the operation
12 of a test-only facility shall expressly require compliance with this
13 chapter and any regulations adopted by the department pursuant
14 to this chapter.

15 (h) The department shall ensure that there is a sufficient number
16 of test-only facilities, and that they are properly located, to ensure
17 reasonable accessibility and convenience to all persons within an
18 enhanced program area, and that the waiting time for consumers
19 is minimized. The department may operate test-only facilities on
20 an interim basis to ensure convenience to consumers. The
21 department shall specify in the request for proposal the minimum
22 number of test-only facilities that are required for the program.
23 Any contracts initially awarded pursuant to this section shall ensure
24 that the contractors are capable of fulfilling the requirements of
25 subdivision (a).

26 (i) Any data generated at a test-only facility shall be the property
27 of the state, and shall be fully accessible to the department at any
28 time. The department may set contract specifications for the storage
29 of that data in a central data storage system or facility designated
30 by the department.

31 (j) The department shall ensure an effective transition to the
32 new program by implementing an effective public education
33 program and may specify in the request for proposal a dollar
34 amount that bidders are required to include in their bids for public
35 education activities, to be implemented pursuant to Section
36 44070.5.

37 (k) The department shall ensure the effective management of
38 the test-only facilities and shall specify in the request for proposal
39 that a manager be present during all hours of station operation.

1 (l) The department shall ensure and facilitate the effective
2 transition of employees of businesses that are licensed or otherwise
3 substantially participating in the smog check program and may
4 specify in the request for proposal that test-only facility
5 management be Automotive Service Excellence (ASE) certified,
6 or be certified by a comparable program as determined by the
7 department.

8 (m) As part of the contracts to be awarded pursuant to
9 subdivision (e), the department may require contractors to perform
10 functions previously undertaken by referee stations throughout the
11 state, as determined by the department, at some or all of the
12 affected stations in enhanced areas, and at additional stations
13 outside enhanced areas only to the extent necessary to provide
14 appropriate access to referee functions.

15 (n) Notwithstanding any other provision of law, to avoid delays
16 to the program implementation timeline required by this chapter
17 or the Clean Air Act, the Department of General Services, at the
18 request of the department, may exempt contracts awarded pursuant
19 to this section from existing laws, rules, resolutions, or procedures
20 that are otherwise applicable, including, but not limited to,
21 restrictions on awarding contracts for more than three years. The
22 department shall identify any exemptions requested and granted
23 pursuant to this subdivision and report thereon to the Legislature.

24 (o) The department shall implement the program established in
25 this section only in urbanized areas classified by the United States
26 Environmental Protection Agency as a serious, severe, or extreme
27 nonattainment area for ozone or a moderate or serious
28 nonattainment area for carbon monoxide with a design value greater
29 than 12.7 ppm, and shall not implement the program in any other
30 area.

31 SEC. 3. Section 44012 of the Health and Safety Code, as added
32 by Section 5 of Chapter 739 of the Statutes of 2007, is amended
33 to read:

34 44012. The test at the smog check stations shall be performed
35 in accordance with procedures prescribed by the department and
36 may require loaded mode dynamometer testing in enhanced areas,
37 two-speed *idle* testing, testing utilizing a vehicle's onboard
38 diagnostic system, or other appropriate test procedures as
39 determined by the department in consultation with the state board.
40 ~~If the department implements testing using only on-board~~

1 ~~diagnostic systems, this testing shall be implemented only on model~~
2 ~~year 2000 and newer vehicles~~ *The department shall implement*
3 *testing using on-board diagnostic systems, in lieu of loaded mode*
4 *dynamometer or two-speed idle testing, on model year 2000 and*
5 *new vehicles only, beginning no earlier than January 1, 2013.* The
6 department shall ensure, as appropriate to the test method, the
7 following:

8 (a) Emission control systems required by state and federal law
9 are reducing excess emissions in accordance with the standards
10 adopted pursuant to subdivisions (a) and (c) of Section 44013.

11 (b) Motor vehicles are preconditioned to ensure representative
12 and stabilized operation of the vehicle's emission control system.

13 (c) For other than diesel-powered vehicles, the vehicle's exhaust
14 emissions of hydrocarbons, carbon monoxide, carbon dioxide, and
15 oxides of nitrogen in an idle mode or loaded mode are tested in
16 accordance with procedures prescribed by the department. In
17 determining how loaded mode and evaporative emissions testing
18 shall be conducted, the department shall ensure that the emission
19 reduction targets for the enhanced program are met.

20 (d) For other than diesel-powered vehicles, the vehicle's fuel
21 evaporative system and crankcase ventilation system are tested to
22 reduce any nonexhaust sources of volatile organic compound
23 emissions, in accordance with procedures prescribed by the
24 department.

25 (e) For diesel-powered vehicles, a visual inspection is made of
26 emission control devices and the vehicle's exhaust emissions are
27 tested in accordance with procedures prescribed by the department,
28 that may include, but are not limited to, onboard diagnostic testing.
29 The test may include testing of emissions of any or all of the
30 pollutants specified in subdivision (c) and, upon the adoption of
31 applicable standards, measurement of emissions of smoke or
32 particulates, or both.

33 (f) A visual or functional check is made of emission control
34 devices specified by the department, including the catalytic
35 converter in those instances in which the department determines
36 it to be necessary to meet the findings of Section 44001. The visual
37 or functional check shall be performed in accordance with
38 procedures prescribed by the department.

1 (g) A determination as to whether the motor vehicle complies
2 with the emission standards for that vehicle’s class and model-year
3 as prescribed by the department.

4 (h) The test procedures may authorize smog check stations to
5 refuse the testing of a vehicle that would be unsafe to test, or that
6 cannot physically be inspected, as specified by the department by
7 regulation. The refusal to test a vehicle for those reasons shall not
8 excuse or exempt the vehicle from compliance with all applicable
9 requirements of this chapter.

10 SEC. 4. Section 44014 of the Health and Safety Code is
11 amended to read:

12 44014. (a) Except as otherwise provided in this chapter, the
13 testing and repair portion of the program shall be conducted by
14 smog check stations licensed by the department, and by smog
15 check technicians who have qualified pursuant to this chapter.

16 (b) A smog check station may be licensed by the department as
17 a smog check test-only station and, when so licensed, need not
18 comply with the requirement for onsite availability of current
19 service and adjustment procedures specified in paragraph (3) of
20 subdivision (b) of Section 44030. A smog check technician
21 employed by a smog check test-only station shall be qualified in
22 accordance with this section.

23 (c) (1) The department shall supply a network of referees. A
24 referee shall have no ownership interest in, or business or economic
25 interest with, a smog check station. Referees may issue repair cost
26 waivers, certificates of compliance or noncompliance, and hardship
27 extensions, in accordance with regulations adopted by the
28 department, and promote automotive training through community
29 colleges and other training institutions certified by the department
30 pursuant to Section 44030.5. Referees shall provide inspection
31 services for specially constructed vehicles pursuant to Section
32 44017.4 and Section 9565 of the Vehicle Code and issue exhaust
33 system certificates of compliance in accordance with Section
34 27150.2 of the Vehicle Code.

35 (2) The department may adopt regulations to establish
36 qualification standards and any special administrative, operational,
37 and licensure standards that the department determines to be
38 necessary for the provision of referee services.

39 (3) The department may adopt, by regulation, a process by which
40 vehicles that present prohibitive or unusual inspection

1 circumstances are inspected by referees, including, but not limited
2 to, the inspection of vehicles in which the manufacturer's physical
3 or operational design presents inspection incompatibilities, vehicles
4 equipped with emission control configurations that do not match
5 United States Environmental Protection Agency or state board
6 certified configurations, including direct import vehicles and
7 vehicles with engine changes, and vehicles equipped with retrofit
8 alternative fuel conversion kits.

9 (4) (A) A referee may charge a fee sufficient to cover the costs
10 of providing referee services for inspections of specially
11 constructed vehicles pursuant to Section 44017.4 and Section 9565
12 of the Vehicle Code, inspections pursuant to Section 27150.2 of
13 the Vehicle Code, and other appropriate categories of referee
14 services as determined by the department. Requirements applicable
15 to the fee, including its amount, shall be established by the
16 department by regulation and the amount may be adjusted to reflect
17 changes in the Consumer Price Index, as published by the United
18 States Bureau of Labor Statistics. The fee may be collected by
19 either a contracted referee or by the department, if the department
20 is providing the referee service.

21 (B) If the fee is imposed and collected by a contracted referee,
22 the contracted referee shall deposit the fees collected from the
23 vehicle owner into a separate trust account that the referee shall
24 account for and manage in accordance with generally accepted
25 accounting practices.

26 (C) If the fee is imposed and collected by the department, the
27 fees shall be deposited into the Vehicle Inspection and Repair
28 Fund.

29 (d) A smog check station may also be licensed as a repair-only
30 station, and if so licensed, may perform repairs to reduce excessive
31 emissions on vehicles which have failed the smog check test.
32 Repair procedures and equipment requirements shall be established
33 by the department. Technicians employed by a smog check
34 repair-only station shall be qualified in accordance with this
35 section.

36 (e) Smog check technicians are qualified to test and repair only
37 those classes and categories of vehicles for which they have passed
38 a qualification test administered by the department. The department
39 shall provide for smog check technicians to be qualified for

1 different categories of motor vehicle inspection based on vehicle
2 classification and model-year.

3 (f) The consumer protection-oriented quality assurance portion
4 of the program, including the provision of referee services, may
5 be conducted by one or more private entities pursuant to contracts
6 with the department.

7 SEC. 5. Section 44014.2 of the Health and Safety Code is
8 amended to read:

9 44014.2. (a) The department shall develop a program for the
10 voluntary certification of licensed smog check stations, or the
11 department may accept a smog check station certification program
12 proposed by accredited industry representatives. The certification
13 program, which may be called a “gold shield” program, shall be
14 for the purpose of providing consumers, whose vehicles fail an
15 emissions test at a test-only facility, an option of services at a single
16 location to prevent the necessity for additional trips back to the
17 test-only facility for vehicle certification. The department ~~may~~
18 *shall* establish inspection-based performance standards consistent
19 with Section 44014.6 for stations certified under this program that
20 the stations would be required to meet to be eligible to issue
21 certificates of compliance or noncompliance for vehicles selected
22 pursuant to Sections 44010.5 and 44014.7, or vehicles identified
23 by the department as gross polluters.

24 (b) The department shall adopt regulations that apply to all
25 enhanced areas of the state, including those areas subject to the
26 enhanced program pursuant to Section 44003.5, that permit both
27 of the following:

28 (1) Any vehicle that fails a required smog test at a test-only
29 facility may be repaired, retested, and certified at a facility licensed
30 pursuant to Section 44014, and certified pursuant to subdivision
31 (a).

32 (2) Any vehicle that is identified as a gross polluter may be
33 repaired, retested, and certified at a facility licensed pursuant to
34 Section 44014, and certified pursuant to subdivision (a).

35 (c) Smog check stations that seek voluntary certification under
36 this section shall enter into an agreement with the department to
37 provide repair services pursuant to Section 44062.1.

38 (d) An agreement made pursuant to this section shall not be
39 deemed to be a contract subject to the requirements of Part 2

1 (commencing with Section 10100) of Division 2 of the Public
2 Contract Code.

3 SEC. 6. Section 44014.5 of the Health and Safety Code is
4 amended to read:

5 44014.5. (a) The enhanced program shall provide for the
6 testing and retesting of vehicles in accordance with Sections
7 44010.5 and 44014.2 and this section.

8 (b) The repair of vehicles at test-only facilities is prohibited,
9 except that the minor repair of components damaged by station
10 personnel during inspection at the station, any minor repair that is
11 necessary for the safe operation of a vehicle while at a station, or
12 other minor repairs, such as the reconnection of hoses or vacuum
13 lines, may be undertaken at no charge to the vehicle owner or
14 operator if authorized in advance in writing by the department.

15 (c) The department shall ~~provide for the distribution to~~
16 ~~consumers by test-only facilities of~~ *make available to consumer*
17 *of test-only facilities* a list, compiled by region, of smog check
18 stations licensed to make repairs of vehicular emission control
19 systems. A test-only facility shall not refer a vehicle owner to any
20 particular provider of vehicle repair services in which the test-only
21 facility has a financial interest.

22 (d) (1) The department shall establish standards for training,
23 equipment, performance, or data collection for test-only facilities.

24 (2) (A) The department ~~may~~ *shall* establish inspection-based
25 performance standards consistent with Section 44014.6 that
26 test-only stations would be required to meet to be eligible to issue
27 certificates of compliance or noncompliance for vehicles selected
28 pursuant to Section 44010.5 or 44014.7, or vehicles identified by
29 the department as gross polluters. Failure at any time to meet these
30 standards shall result in ~~an automatic suspension by operation of~~
31 ~~law~~ *suspension* of the certification to test these vehicles granted
32 by the department. A test-only station not meeting the performance
33 standards may continue to issue certificates of compliance and
34 noncompliance for other vehicles. The department shall adopt
35 measures to ensure the requirements of this subparagraph are met,
36 including through the use of the computer database and computer
37 network authorized by Section 44037.1.

38 (B) ~~The department shall provide the test-only station with~~
39 ~~notice, written or electronic, of the suspension pursuant to~~
40 ~~subparagraph (A) within 24 hours of the suspension.~~

1 ~~(C) A test-only station whose certification has been suspended~~
2 ~~pursuant to subparagraph (A) may apply to the department for a~~
3 ~~hearing to contest the evidence supporting the certification~~
4 ~~suspension. The application for a hearing shall be in writing and~~
5 ~~shall be received by the department within 30 days after the date~~
6 ~~of suspension. The department shall set the matter for a hearing~~
7 ~~within 30 days of receipt of the written request. The hearing~~
8 ~~requirements of Section 44072 shall not apply.~~

9 *(B) The department shall provide the test-only station with*
10 *48-hour written or electronic notice, prior to the suspension*
11 *pursuant to subparagraph (A). The notice shall specify the grounds*
12 *for the suspension and provide that the station within five days of*
13 *receipt of the notice may request a hearing before the chief of the*
14 *bureau or his or her designee to contest the suspension. The request*
15 *for hearing shall be in writing. Receipt of this hearing request*
16 *shall stay the suspension pending the outcome of the hearing. If a*
17 *request for hearing is not made, the chief of the bureau shall issue*
18 *a final written decision of suspension within 10 days of the last*
19 *date that a hearing could have been requested.*

20 *(C) The hearing conducted by the chief of the bureau or his or*
21 *her designee shall be held not later than 10 days from the date*
22 *that the request for a hearing is received by the chief of the bureau.*
23 *The hearing requirements of Section 44072 shall not apply. The*
24 *chief of the bureau shall render a written decision within 10 days*
25 *of the hearing. The decision may rescind the suspension, affirm*
26 *the suspension, or order any other appropriate action.*
27 *Administrative review, before an administrative law judge, of the*
28 *decision of the chief of the bureau may be sought within 30 days*
29 *of the date of the decision.*

30 *(D) The department may adopt regulations to implement this*
31 *paragraph.*

32 *(e) The department shall prohibit test-only facilities from*
33 *engaging in other business activities that represent a conflict of*
34 *interest, as determined by the department. Upon implementation*
35 *of the performance standards described in paragraph (2) of*
36 *subdivision (d), ownership of a test-and-repair station by an owner*
37 *of a test-only facility shall not be considered a conflict of interest.*

38 *(f) The test-only facility may charge a fee, established by the*
39 *department, sufficient to cover the facility's cost to perform the*
40 *tests or services, including, but not limited to, referee services and*

1 the issuance of waivers and hardship extensions required by this
2 chapter. In addition, the station shall charge and collect the
3 certificate fee established pursuant to Section 44060. This
4 subdivision shall apply only to facilities contracted for pursuant
5 to subdivision (e) of Section 44010.5.

6 (g) The department shall ensure that there is a sufficient number
7 of test-only facilities to provide convenient testing for the following
8 vehicles:

9 (1) All vehicles identified and confirmed as gross polluters
10 pursuant to Section 44081 and Section 27156 of the Vehicle Code.

11 (2) (A) Vehicles initially identified as gross polluters by a smog
12 check station licensed as a test-and-repair station may be issued a
13 certificate of compliance by a test-only facility or by a licensed
14 smog check station certified pursuant to Section 44014.2.

15 (B) For purposes of this section, the department shall implement
16 a program that allows vehicles initially identified as gross polluters
17 to be repaired and issued a certificate of compliance by a facility
18 licensed and certified pursuant to Section 44014.2.

19 (3) All vehicles designated by the department pursuant to
20 Sections 44014.7 and 44020.

21 (4) Vehicles issued an economic hardship extension in the
22 previous biennial inspection of the vehicle.

23 (h) The department shall provide a sufficient number of test-only
24 facilities authorized to perform referee functions to provide
25 convenient testing for those vehicles that are required to report to,
26 and receive a certificate of compliance from, a test-only facility
27 by this chapter, including all of the following:

28 (1) All vehicles seeking to utilize state-operated financial
29 assistance or inclusion in authorized scrap programs.

30 (2) All vehicles unable to obtain a certificate of compliance
31 from a licensed smog check station pursuant to subdivision (c) of
32 Section 44015.

33 (3) Any other vehicles that may be designated by the department.

34 (i) Gross polluters shall be referred to a test-only facility, or a
35 test-and-repair station that is both licensed and certified pursuant
36 to Sections 44014 and 44014.2, for a postrepair inspection and
37 retest pursuant to subdivision (g). Passing the emissions test is not
38 a sufficient condition for receiving a certificate of compliance. A
39 certificate of compliance shall only be issued to a vehicle that does
40 not have any defects with its emission control system or any defects

1 that could lead to damage of its emission control system, as
 2 provided in regulations adopted by the department.

3 SEC. 7. Section 44014.6 is added to the Health and Safety
 4 Code, to read:

5 44014.6. (a) The inspection-based performance standards
 6 created pursuant to subdivision (a) of Section 44014.2 and the
 7 inspection-based performance standards created pursuant to
 8 paragraph (2) of subdivision (d) of Section 44014.5 shall be based
 9 on the same criteria.

10 (b) The performance standards described in subdivision (a), if
 11 established, shall be applied to smog check technicians licensed
 12 pursuant to this chapter, if the department determines that is
 13 feasible.

14 (c) Beginning no later than January 1, 2012, if the performance
 15 standards described in subdivision (a) are established, the
 16 department shall provide to all licensed smog check stations and
 17 technicians, if technicians are included pursuant to subdivision
 18 (b), a preliminary report on the station's and the technician's
 19 performance applying the performance standards. The preliminary
 20 report shall include the criteria that is the basis of the performance
 21 standards and an assessment of the station's and the technician's
 22 potential eligibility to issue certificates of compliance or
 23 noncompliance for vehicles selected pursuant to Sections 44010.5
 24 and 44014.7, or vehicles identified by the department as gross
 25 polluters.

26 SEC. 8. Section 44015 of the Health and Safety Code is
 27 amended to read:

28 44015. (a) A licensed smog check station shall not issue a
 29 certificate of compliance, except as authorized by this chapter, to
 30 any vehicle that meets the following criteria:

- 31 (1) A vehicle that has been tampered with.
- 32 (2) *A vehicle identified pursuant to subparagraph (K) of*
 33 *paragraph (3) of subdivision (b) of Section 44036. A vehicle*
 34 *identified pursuant to subparagraph (K) of paragraph (3) of*
 35 *subdivision (b) of Section 44036 shall be directed to the department*
 36 *to determine whether an inadvertent error can explain the*
 37 *irregularity, or whether the vehicle otherwise meets smog check*
 38 *requirements, allowing the certificate for compliance to be issued,*
 39 *or the vehicle shall be reinspected by a referee or another smog*
 40 *check station.*

1 ~~(2)~~

2 (3) A vehicle that, prior to repairs, has been initially identified
3 by the smog check station as a gross polluter. Certification of a
4 gross polluting vehicle shall be conducted by a designated test-only
5 facility, or a test-and-repair station that is both licensed and
6 certified pursuant to Sections 44014 and 44014.2.

7 ~~(3)~~

8 (4) A vehicle described in subdivision (c).

9 (b) If a vehicle meets the requirements of Section 44012, a smog
10 check station licensed to issue certificates shall issue a certificate
11 of compliance or a certificate of noncompliance.

12 (c) (1) A repair cost waiver shall be issued, upon request of the
13 vehicle owner, by an entity authorized to perform referee functions
14 for a vehicle that has been properly tested but does not meet the
15 applicable emission standards when it is determined that no
16 adjustment or repair can be made that will reduce emissions from
17 the inspected motor vehicle without exceeding the applicable repair
18 cost limit established under Section 44017 and that every defect
19 specified by paragraph (2) of subdivision (a) of Section 43204,
20 and by paragraphs (2) and (3) of subdivision (a) of Section 43205,
21 has been corrected. A repair cost waiver issued pursuant to this
22 paragraph shall be accepted in lieu of a certificate of compliance
23 for the purposes of compliance with Section 4000.3 of the Vehicle
24 Code. No repair cost waiver shall exceed two years' duration. No
25 repair cost waiver shall be issued until the vehicle owner has
26 expended an amount equal to the applicable repair cost limit
27 specified in Section 44017.

28 (2) An economic hardship extension shall be issued, upon
29 request of a qualified low-income motor vehicle owner, by an
30 entity authorized to perform referee functions, for a motor vehicle
31 that has been properly tested but does not meet the applicable
32 emission standards when it is determined that no adjustment or
33 repair can be made that will reduce emissions from the inspected
34 motor vehicle without exceeding the applicable repair cost limit,
35 as established pursuant to Section 44017.1, that every defect
36 specified in paragraph (2) of subdivision (a) of Section 43204, and
37 in paragraphs (2) and (3) of subdivision (a) of Section 43205, has
38 been corrected, that the low-income vehicle owner would suffer
39 an economic hardship if the extension is not issued, and that all
40 appropriate emissions-related repairs up to the amount of the

1 applicable repair cost limit in Section 44017.1 have been
2 performed.

3 (d) No repair cost waiver or economic hardship extension shall
4 be issued under any of the following circumstances:

5 (1) If a motor vehicle was issued a repair cost waiver or
6 economic hardship extension in the previous biennial inspection
7 of that vehicle. A repair cost waiver or economic hardship
8 extension may be issued to a motor vehicle owner only once for
9 a particular motor vehicle belonging to that owner. However, a
10 repair cost waiver or economic hardship extension may be issued
11 for a motor vehicle that participated in a previous waiver or
12 extension program prior to January 1, 1998, as determined by the
13 department. For waivers or extensions issued in the program
14 operative on or after January 1, 1998, a waiver or extension may
15 be issued for a motor vehicle only once per owner.

16 (2) Upon initial registration of all of the following:

17 (A) A direct import motor vehicle.

18 (B) A motor vehicle previously registered outside this state.

19 (C) A dismantled motor vehicle pursuant to Section 11519 of
20 the Vehicle Code.

21 (D) A motor vehicle that has had an engine change.

22 (E) An alternate fuel vehicle.

23 (F) A specially constructed vehicle.

24 (e) Except as provided in subdivision (f), a certificate of
25 compliance or noncompliance shall be valid for 90 days.

26 (f) Excluding any vehicle whose transfer of ownership and
27 registration is described in subdivision (d) of Section 4000.1 of
28 the Vehicle Code, and except as otherwise provided in Sections
29 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a
30 licensed motor vehicle dealer shall be responsible for having a
31 smog check inspection performed on, and a certificate of
32 compliance or noncompliance issued for, every motor vehicle
33 offered for retail sale. A certificate issued to a licensed motor
34 vehicle dealer shall be valid for a two-year period, or until the
35 vehicle is sold and registered to a retail buyer, whichever occurs
36 first.

37 (g) A test may be made at any time within 90 days prior to the
38 date otherwise required.

1 ~~SEC. 8.~~

2 *SEC. 9.* Section 44024.5 of the Health and Safety Code is
3 amended to read:

4 44024.5. (a) The department shall compile and maintain
5 statistical and emissions profiles and data from motor vehicles that
6 are subject to the motor vehicle inspection program. The
7 department may use data from any source, including remote sensing
8 data, in use data, and other motor vehicle inspection program data,
9 to develop and confirm the validity of the profiles, to evaluate the
10 program, and to assess the performance of smog check stations.
11 The department shall undertake these requirements directly or seek
12 a qualified vendor for these services.

13 (b) The department, in cooperation with the state board, shall
14 perform analyses of data collected pursuant to subdivision (a) and
15 report the results to the public annually, beginning no later than
16 July 1, 2011. The report shall include, at a minimum, all of the
17 following:

18 (1) An independent validation of the evaluation methods,
19 findings, and conclusions presented in the report.

20 (2) The percentage of vehicles that initially passed a smog check
21 inspection and then failed a subsequent inspection as indicated by
22 the data collected pursuant to subdivision (a).

23 (3) The percentage of vehicles that initially failed a smog check
24 inspection and then failed a subsequent inspection as indicated by
25 the data collected pursuant to subdivision (a).

26 (4) An estimate of excessive emissions resulting from vehicles
27 identified in paragraphs (2) and (3).

28 (5) A best-efforts explanation regarding the reasons vehicles
29 identified in paragraphs (2) and (3) inappropriately failed or passed
30 an inspection.

31 (6) Recommended changes to the smog check program to reduce
32 to a minimum the excess emissions identified in paragraph (4). In
33 developing the recommended changes, the department and the
34 state board shall undertake a thorough evaluation of the best
35 practices of other state smog check inspection programs, and shall
36 include in the recommendations how these other state best practices
37 can be incorporated into California's program. Program
38 recommendations pertaining to contracting with one or more
39 entities to manage smog check stations shall not be implemented
40 unless the Legislature, by statute, authorizes that contracting.

1 (7) A comparison to the findings of the report “Evaluation of
2 the California Smog Check Program Using Random Roadside
3 Data” dated March 12, 2009.

4 (c) The department and the state board, in consultation with the
5 Inspection and Maintenance Review Committee, may determine
6 that, in addition to the vehicles excepted pursuant to Section 44011,
7 certain other motor vehicles may be excepted from the biennial
8 certification requirements of this chapter without significantly
9 compromising the emission reduction objectives set forth in the
10 State Implementation Plan (SIP).

11 (d) The department may conduct a pilot program to except from
12 the biennial certification requirement those vehicles that may be
13 jointly determined by the department and the state board, after
14 consultation with the Inspection and Maintenance Review
15 Committee, to warrant exception. The department shall provide
16 written notification to the Legislature specifying the number of
17 vehicles to be exempted as well as the geographic location and
18 duration of the pilot program not less than 30 days prior to the
19 implementation of the pilot program. The department shall submit
20 the results of the pilot program to the state board and the Inspection
21 and Maintenance Review Committee for review. Subject to the
22 approval of the United States Environmental Protection Agency
23 as an amendment to the SIP, the department may establish the
24 exception program as a permanent program.

25 (e) For vehicles four model years old or less, the department
26 shall use test data generated pursuant to Section 44014.7 to develop
27 statistical and emissions profiles. The department may use data
28 from any source, including remote sensing data, warranty repair
29 and recall data, and other motor vehicle inspection program data,
30 to develop and confirm the validity of the data. If the department
31 and state board jointly determine that the emissions from a class
32 of motor vehicles would potentially compromise the emission
33 reduction objectives set forth in the SIP, the state board shall
34 consider appropriate corrective action, including, but not limited
35 to, recall pursuant to Section 43105.

36 ~~SEC. 9.~~

37 *SEC. 10.* Section 44036 of the Health and Safety Code is
38 amended to read:

39 44036. (a) The consumer protection-oriented quality assurance
40 portion of the motor vehicle inspection program shall ensure

1 uniform and consistent tests and repairs by all qualified smog check
2 technicians and licensed smog check stations throughout the state,
3 and shall include a number of stations providing referee functions
4 available to consumers.

5 (b) (1) All licensed smog check stations shall utilize original
6 equipment and replacement parts that are certified by the
7 department. The department may enter into a contract for the
8 supply or service of certified equipment with the manufacturers
9 and service providers of this equipment. The department shall
10 afford to the smog check station the option to purchase the
11 equipment or service directly from the contractor or any other
12 provider of certified equipment or service, as determined by the
13 department. A contract executed pursuant to this paragraph may
14 authorize compensation to the contractor as provided in subdivision
15 (c) of Section 44037.2.

16 (2) The department shall charge a fee for certification testing
17 of the equipment or the replacement parts. The fee for certification
18 testing of equipment shall be fixed by the department based upon
19 its actual costs of certification testing, shall be calculated from the
20 time that the equipment is submitted for certification testing until
21 the time that the certification testing is complete, and shall not
22 exceed ten thousand dollars (\$10,000). The fee for certification
23 testing of replacement parts shall be determined by the department
24 based upon its actual costs of certification testing, shall be
25 calculated from the time that the replacement part is submitted for
26 certification testing until the time that the certification testing is
27 complete, and shall not exceed two thousand five hundred dollars
28 (\$2,500).

29 (3) The department shall adopt, and may revise, standards for
30 certification and decertification of the equipment, that may include
31 a device for testing of emissions of oxides of nitrogen. The
32 department shall adopt, and update as necessary, equipment
33 standards that may include a test analyzer system containing any
34 or all of the following components:

35 (A) A microprocessor to control test sequencing, selection of
36 proper test standards, the automatic pass or fail decision, and the
37 format for the test report and the recorded data file. The
38 microprocessor shall be capable of using a standardized
39 programming language specified by the department.

1 (B) An exhaust gas analysis portion with an analyzer for
2 hydrocarbons, carbon monoxide, and carbon dioxide that is
3 designed to accommodate an optional oxides of nitrogen analyzer.
4 An oxides of nitrogen analyzer shall be required in the enhanced
5 program areas.

6 (C) Equipment necessary to perform visual and functional tests
7 of emission control devices required by the department.

8 (D) A device to accept and record motor vehicle identification
9 information, including a device capable of reading barcode
10 information pursuant to regulations of the state board. The device
11 shall have the ability to identify, with the cooperation of the
12 Department of Motor Vehicles, smog inspections performed on
13 vehicles sold by used car dealers.

14 (E) A device to provide a printed record of the test process and
15 diagnostic information for the motorist.

16 (F) A mass storage device capable of storing not less than the
17 minimum amount of program software and data specified by the
18 department.

19 (G) A device to provide for the periodic modification of all
20 program and data files contained on the mass storage device, using
21 a standardized form of removable media conforming to
22 specifications of the department.

23 (H) A device that provides for the storage of test records on a
24 standardized form of removable media conforming to specifications
25 of the department.

26 (I) One or more communications ports conforming to the
27 specifications established by the department as necessary to provide
28 real time communication, or communication that is consistent with
29 maintaining a superior quality assurance program and efficient
30 information transfer, between the test equipment and the centralized
31 computer database through the computer network maintained by
32 the department pursuant to Section 44037.1.

33 (J) An interface capable of monitoring equipment used with
34 loaded mode testing, idle testing, onboard diagnostic testing, or
35 other tests prescribed by the department.

36 (K) *A real-time computer data program that would prevent a*
37 *certificate of compliance from being issued if a vehicle is identified*
38 *as having an excessive variance from computer data for that*
39 *vehicle, mismatched information, or other irregularities.*

40 (~~K~~)

1 (L) Any other features that the department determines are
2 necessary to increase the effectiveness of the program, including,
3 but not limited to, a loaded mode dynamometer for purposes of
4 oxides of nitrogen detection, and other equipment necessary to
5 detect nonexhaust-related volatile organic compound emissions,
6 such as those found in fuel system evaporative emissions and
7 crankcase ventilation emissions.

8 (c) (1) ~~If the department revises standards for certification and~~
9 ~~decertification of equipment pursuant to subdivision (b) of Section~~
10 ~~44036, the~~ The department shall not require smog check stations
11 to use equipment that meets ~~these revised requirements~~ *revised*
12 *standards for certification and decertification of equipment*
13 *pursuant to subdivision (b)* earlier than January 1, 2013.

14 (2) If existing smog check stations licenced pursuant to this
15 chapter or training institutions certified pursuant to Section 44030.5
16 are required to make investments of more than ten thousand dollars
17 (\$10,000) to acquire equipment to meet the requirements of this
18 subdivision, the department shall submit recommendations to the
19 Governor and the Legislature for any appropriate mitigation
20 measures, including, but not limited to, subsidies, equipment leases,
21 grants, or loans.

22 (3) The department may defer the requirement for any
23 equipment, external to the chassis of the test analyzer system,
24 needed to read barcode information, until a substantial portion of
25 the vehicles subject to this chapter are equipped with barcode
26 labels.

27 (4) Prior to the imposition of a requirement for equipment
28 meeting the requirements of subdivision (b), every smog check
29 station shall use equipment meeting the specifications of the
30 department in effect on January 1, 1996.

31 (d) The quality assurance portion shall provide for inspections
32 of licensed smog check stations, data collection and forwarding,
33 equipment accuracy checks, operation of referee stations, and other
34 necessary functions. If the services are contracted for pursuant to
35 subdivision (e) of Section 44014, the department shall prepare
36 detailed specifications and solicit bids from private entities for the
37 implementation of the quality assurance functions.

38 (e) The department may revise the specifications for equipment
39 annually if the cost thereof is less than 20 percent of the total

1 system cost. A more comprehensive revision to the specifications
2 may be required not more often than every five years.

3 (f) (1) Equipment manufacturers shall furnish to the department,
4 and shall install, software and hardware updates as specified by
5 the department. The department shall allow equipment
6 manufacturers six months, from the date the department issues its
7 proposed specifications for periodic software and hardware updates,
8 to obtain department approval that the updates meet the proposed
9 specifications and to install the updates in all equipment subject
10 to the updates. During the first 30 days of the six-month period,
11 the manufacturers shall be permitted to review and to comment
12 upon the proposed specifications. However, notwithstanding any
13 other provision of this section, the department may order
14 manufacturers to install software and hardware changes in a shorter
15 period of time upon a finding by the department that a previously
16 installed update does not meet current specifications.

17 (2) The department may establish hardware specifications,
18 performance standards, and operational requirements for the
19 certification and continuing certification of the equipment specified
20 in subdivision (b).

21 (3) A manufacturer's failure to furnish or install required
22 software updates or to meet the specifications, standards, or
23 requirements established pursuant to paragraph (2), is cause for
24 the department to decertify the manufacturer's test analyzer system
25 or to issue a citation to the manufacturer. The citation shall specify
26 the nature of the violation and may specify a civil penalty not to
27 exceed one thousand dollars (\$1,000) for each day the manufacturer
28 fails to furnish or install the specified software updates by the
29 specified period. In assessing a civil penalty pursuant to this
30 paragraph, the department shall give due consideration, in
31 determining the appropriateness of the amount of the civil penalty,
32 to factors such as the gravity of the violation, the good faith of the
33 manufacturer, and the history of previous violations.

34 (4) The citations shall be served pursuant to subdivision (c) of
35 Section 11505 of the Government Code. The manufacturer may
36 request a hearing in accordance with Chapter 5 (commencing with
37 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
38 Code. A request for a hearing shall be submitted in writing within
39 30 days of service of the citation, and shall be delivered to the
40 office of the department in Sacramento. Hearings and related

1 procedures under this paragraph shall be conducted in the same
2 manner as proceedings for adjudication of an accusation under
3 that Chapter 5, except as otherwise specified in this article.

4 (5) If within 30 days from the date of service of the citation, the
5 manufacturer fails to request a hearing, the citation shall be deemed
6 the final order of the department.

7 (6) Any failure to comply with the final order of the department
8 for payment of a civil penalty, or to pay the amount specified in
9 any settlement executed by the licensee and the Director of
10 Consumer Affairs, is cause for decertification of the manufacturer's
11 test analyzer system.

12 ~~SEC. 10.~~

13 *SEC. 11.* Section 44050 of the Health and Safety Code is
14 repealed.

15 ~~SEC. 11.~~

16 *SEC. 12.* Section 44050 is added to the Health and Safety Code,
17 to read:

18 44050. (a) In addition to or in lieu of any other remedy or
19 penalty, including, but not limited to, education, training, or an
20 office conference, the department may issue a citation to a licensee,
21 contractor, or fleet owner for a violation of the requirements of
22 this chapter or a regulation adopted pursuant to this chapter. The
23 citation may contain an order of abatement or the assessment of
24 an administrative fine, or both.

25 (b) An administrative fine issued pursuant to this section shall
26 be at least one hundred dollars (\$100) but not more than five
27 thousand dollars (\$5,000) for each violation. In assessing a fine,
28 the department shall give due consideration to the appropriateness
29 of the amount of the fine, including an evaluation of all of the
30 following:

31 (1) The nature, gravity, severity, and seriousness of the violation.

32 (2) The persistence of the violation.

33 (3) The good faith or willfulness of the violator.

34 (4) The history of previous violations by that violator, including
35 the commission of numerous and repeated violations.

36 (5) The failure to perform work for which money was received.

37 (6) The making of any false or misleading statement in order
38 to induce a person to authorize repair work or pay money.

39 (7) The failure to make restitution to consumers affected by the
40 violation.

1 (8) The extent to which the violator has mitigated or attempted
2 to mitigate any damage or injury caused by the violation.

3 (9) The degree of incompetence or negligence in the
4 performance of duties and responsibilities.

5 (10) The purposes and goals of this chapter and other matters
6 as may be appropriate.

7 (c) An order of abatement issued pursuant to this section shall
8 fix a reasonable time for abatement of the violation. An order of
9 abatement may require any or all of the following:

10 (1) The licensee, contractor, or fleet owner to whom the citation
11 is issued to demonstrate how future compliance with this chapter,
12 and regulations adopted pursuant to this chapter, will be
13 accomplished. This demonstration may include, but is not limited
14 to, submission of a corrective action plan.

15 (2) The smog check technician to successfully complete one or
16 more retraining courses prescribed by the department pursuant to
17 subdivision (c) of Section 44031.5, or successfully complete one
18 or more advanced retraining courses prescribed by the department,
19 or both.

20 (3) The smog check technician to perform no inspection or
21 repair pursuant to this chapter until training courses prescribed by
22 the department are successfully completed.

23 (d) A citation issued pursuant to this section shall be in writing
24 and shall describe the nature of the violation and the specific
25 provision of law determined to have been violated. The citation
26 shall inform in writing the licensee, contractor, or fleet owner of
27 the right to request a hearing, as described in Section 44051. If a
28 hearing is not requested, payment of the administrative fine shall
29 not constitute an admission of the violation charged. If a hearing
30 is requested, the department shall provide a hearing in accordance
31 with Chapter 5 (commencing with Section 11500) of Part 1 of
32 Division 3 of Title 2 of the Government Code, except insofar as
33 those provisions are inconsistent with the provisions of this article.
34 Payment of the administrative fine shall be due 30 days after the
35 citation was issued if a hearing is not requested, or when a final
36 order is entered if a hearing is requested. The department may
37 enforce the administrative fine as if it were a money judgment
38 pursuant to Title 9 (commencing with Section 680.010) of Part 2
39 of the Code of Civil Procedure.

1 (e) Failure to comply with an order of abatement or payment
2 of an administrative fine issued by the department pursuant to this
3 section is grounds for suspension or revocation of the license, or
4 placing the licensee on probation.

5 (f) Administrative fines collected pursuant to this section shall
6 be deposited in the High Polluter Repair or Removal Account
7 within the Vehicle Inspection and Repair Fund.

8 ~~SEC. 12.~~

9 *SEC. 13.* Section 44050.5 of the Health and Safety Code is
10 repealed.

11 ~~SEC. 13.~~

12 *SEC. 14.* Section 44051 of the Health and Safety Code is
13 repealed.

14 ~~SEC. 14.~~

15 *SEC. 15.* Section 44051 is added to the Health and Safety Code,
16 to read:

17 44051. (a) If a person cited pursuant to Section 44050 wishes
18 to contest the citation, that person shall, within 30 days after service
19 of the citation, file in writing a request for an administrative hearing
20 to the chief of the bureau or a designee.

21 (b) (1) In addition to, or instead of, requesting an administrative
22 hearing pursuant to subdivision (a), the person cited pursuant to
23 Section 44050 may, within 30 days after service of the citation,
24 contest the citation by submitting a written request for an informal
25 citation conference to the chief of the bureau or a designee.

26 (2) Upon receipt of a written request for an informal citation
27 conference, the chief of the bureau or a designee shall, within 60
28 days of the request, hold an informal citation conference with the
29 person requesting the conference. The cited person may be
30 accompanied and represented by an attorney or other authorized
31 representative.

32 (3) If an informal citation conference is held, the request for an
33 administrative hearing shall be deemed withdrawn and the chief
34 of the bureau, or designee, may affirm, modify, or dismiss the
35 citation at the conclusion of the informal citation conference. If
36 so affirmed or modified, the citation originally issued shall be
37 considered withdrawn and an affirmed or modified citation,
38 including reasons for the decision, shall be issued. The affirmed
39 or modified citation shall be mailed to the cited person and that

1 person’s counsel, if any, within 10 days of the date of the informal
2 citation conference.

3 (4) If a cited person wishes to contest a citation affirmed or
4 modified pursuant to paragraph (3), the person shall, within 30
5 days after service of the modified or affirmed citation, contest the
6 affirmed or modified citation by submitting a written request for
7 an administrative hearing to the chief of the bureau or a designee.
8 An informal citation conference shall not be held on affirmed or
9 modified citations.

10 ~~SEC. 15.~~

11 *SEC. 16.* Section 44051.5 of the Health and Safety Code is
12 repealed.

13 ~~SEC. 16.~~

14 *SEC. 17.* Section 44052 of the Health and Safety Code is
15 amended to read:

16 44052. (a) If a citation lists more than one violation, the
17 amount of the civil penalty or administrative fine assessed shall
18 be stated separately for each statute and regulation violated.

19 (b) If a citation lists more than one violation arising from a
20 single motor vehicle inspection or repair, the total penalties
21 assessed shall not exceed five thousand dollars (\$5,000).

22 ~~SEC. 17.~~

23 *SEC. 18.* Section 44053 of the Health and Safety Code is
24 repealed.

25 ~~SEC. 18.~~

26 *SEC. 19.* Section 44054 of the Health and Safety Code is
27 repealed.

28 ~~SEC. 19.~~

29 *SEC. 20.* Section 44055 of the Health and Safety Code is
30 amended to read:

31 44055. (a) Any failure by an applicant for a license or for the
32 renewal of a license, or by any partner, officer, or director thereof,
33 to comply with the final order of the department for the payment
34 of an administrative fine, or to pay the amount specified in a
35 settlement executed by the applicant and the Director of the
36 Department of Consumer Affairs, shall result in denial of a license
37 or of the renewal of the license. The department shall not allow
38 the issuance of any certificate of compliance or noncompliance
39 by a licensee until all civil penalties and administrative fines which

1 have become final, or amounts agreed to in a settlement, have been
2 paid by the licensee.

3 (b) The department may deny an application for the renewal
4 of a test station or repair station license if the applicant, or any
5 partner, officer, or director thereof, has failed to pay any civil
6 penalty or administrative fine in accordance with this article.

7 ~~SEC. 20.~~

8 *SEC. 21.* Section 44056 of the Health and Safety Code is
9 amended to read:

10 44056. (a) In addition to an administrative fine pursuant to
11 Section 44050, any person who violates this chapter, or any order,
12 rule, or regulation of the department adopted pursuant to this
13 chapter, is liable for a civil penalty of not more than five thousand
14 dollars (\$5,000) for each day in which each violation occurs. Any
15 action to recover civil penalties shall be brought by the Attorney
16 General in the name of the state on behalf of the department, or
17 may be brought by any district attorney, city attorney, or attorney
18 for a district. In assessing a civil penalty pursuant to this
19 subdivision due consideration shall be given to the factors
20 identified in subdivision (b) of Section 44050.

21 (b) The penalties specified in subdivision (a) do not apply to an
22 owner or operator of a motor vehicle, except an owner or operator
23 who does any of the following:

24 (1) Obtains, or who attempts to obtain, a certificate of
25 compliance or noncompliance, a repair cost waiver, or an economic
26 hardship extension without complying with Section 44015.

27 (2) Obtains, or attempts to obtain, a certificate of compliance,
28 a repair cost waiver, or an economic hardship extension by means
29 of fraud, including, but not limited to, offering or giving any form
30 of financial or other inducement to any person for the purpose of
31 obtaining a certificate of compliance for a vehicle that has not been
32 tested or has been tested improperly.

33 (3) Registers a motor vehicle at an address other than the
34 owner's or operator's residence address for the purpose of avoiding
35 the requirements of this chapter.

36 (4) Obtains, or attempts to obtain, a certificate of compliance
37 by other means when required to report to the test-only facility
38 after being identified as a tampered vehicle or gross polluter
39 pursuant to Section 44015 or 44081.

- 1 (c) Any person who obtains or attempts to obtain a repair cost
- 2 waiver, or economic hardship extension pursuant to this chapter
- 3 by falsifying information shall be subject to a civil penalty of not
- 4 more than five thousand dollars (\$5,000), and shall be made
- 5 ineligible for receiving any repair assistance of any kind pursuant
- 6 to this chapter.
- 7 (d) Any person who obtains or attempts to obtain a certificate
- 8 of compliance pursuant to this chapter by falsifying information
- 9 shall be subject to a civil penalty of not more than five thousand
- 10 dollars (\$5,000).