

AMENDED IN SENATE JULY 15, 2010

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 onboard 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 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:

1 44001.1. (a) The Legislature finds and declares that additional
2 reductions of motor vehicle emissions could be achieved by
3 effective repairs to motor vehicle emission control components.

4 (b) It is the intent of the Legislature that the department work
5 with the California Community Colleges and other training
6 institutions to identify funding mechanisms that encourage the
7 development of innovative training programs for motor vehicle
8 technicians that focus on reducing air pollution from vehicles
9 needing repair and to increase the number and skill level of motor
10 vehicle technicians.

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

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

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

30 (2) Upon increasing the capacity of the program pursuant to
31 paragraph (1), the department shall afford smog check stations
32 that are licensed and certified pursuant to Sections 44014 and
33 44014.2 the initial opportunity to perform the required inspections.
34 The department shall adopt, by regulation, the requirements to
35 provide that initial opportunity.

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

1 (c) The program shall utilize the testing procedures described
2 in Section 44012. Vehicles selected for testing pursuant to this
3 section shall include vehicles equipped without second generation
4 onboard diagnostic systems (OBD II) and vehicles with emission
5 problems that may not be adequately detected by the vehicle's
6 OBD II, as determined by the department in consultation with the
7 state board. The department, in consultation with the state board,
8 may also select for testing pursuant to this section any other
9 vehicles necessary in order to meet the requirement described in
10 paragraph (1) of subdivision (b).

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

20 (e) (1) The department may implement the program established
21 pursuant to subdivision (a) through a network of privately operated
22 test-only facilities established pursuant to contracts to be awarded
23 pursuant to this section.

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

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

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

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

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

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

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

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

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

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

34 (j) The department shall ensure an effective transition to the
35 new program by implementing an effective public education
36 program and may specify in the request for proposal a dollar
37 amount that bidders are required to include in their bids for public
38 education activities, to be implemented pursuant to Section
39 44070.5.

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

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

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

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

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

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

37 44012. The test at the smog check stations shall be performed
38 in accordance with procedures prescribed by the department and
39 may require loaded mode dynamometer testing in enhanced areas,
40 two-speed idle testing, testing utilizing a vehicle's onboard

1 diagnostic system, or other appropriate test procedures as
2 determined by the department in consultation with the state board.
3 The department shall implement testing using onboard diagnostic
4 systems, in lieu of loaded mode dynamometer or two-speed idle
5 testing, on model year 2000 and ~~new vehicles only, beginning no~~
6 ~~earlier than January 1, 2013~~ *newer vehicles only, beginning no*
7 *earlier than January 1, 2013. However, the department, in*
8 *consultation with the state board, may prescribe alternative test*
9 *procedures that include loaded mode dynamometer or two-speed*
10 *idle testing for vehicles with emission problems that may not be*
11 *adequately detected by their on-board diagnostic systems, including*
12 *requiring vehicles that have failed, or are likely to fail, their*
13 *onboard diagnostic test, when evidence suggests they would have*
14 *likely passed a tailpipe test, to be tested using a loaded mode*
15 *dynamometer or two-speed idle test in lieu of an onboard*
16 *diagnostic test. The department shall ensure, as appropriate to the*
17 *test method, the following:*

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

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

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

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

35 (e) For diesel-powered vehicles, a visual inspection is made of
36 emission control devices and the vehicle's exhaust emissions are
37 tested in accordance with procedures prescribed by the department,
38 that may include, but are not limited to, onboard diagnostic testing.
39 The test may include testing of emissions of any or all of the
40 pollutants specified in subdivision (c) and, upon the adoption of

1 applicable standards, measurement of emissions of smoke or
 2 particulates, or both.

3 (f) A visual or functional check is made of emission control
 4 devices specified by the department, including the catalytic
 5 converter in those instances in which the department determines
 6 it to be necessary to meet the findings of Section 44001. The visual
 7 or functional check shall be performed in accordance with
 8 procedures prescribed by the department.

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

12 (h) *An analysis of pass and fail rates of vehicles subject to an*
 13 *on-board diagnostic test and a tailpipe test to assess whether any*
 14 *vehicles passing their on-board diagnostic test have, or would*
 15 *have, failed a tailpipe test, and whether any vehicles failing their*
 16 *on-board diagnostic test have or would have passed a tailpipe test.*

17 ~~(h)~~

18 (i) The test procedures may authorize smog check stations to
 19 refuse the testing of a vehicle that would be unsafe to test, or that
 20 cannot physically be inspected, as specified by the department by
 21 regulation. The refusal to test a vehicle for those reasons shall not
 22 excuse or exempt the vehicle from compliance with all applicable
 23 requirements of this chapter.

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

26 44014. (a) Except as otherwise provided in this chapter, the
 27 testing and repair portion of the program shall be conducted by
 28 smog check stations licensed by the department, and by smog
 29 check technicians who have qualified pursuant to this chapter.

30 (b) A smog check station may be licensed by the department as
 31 a smog check test-only station and, when so licensed, need not
 32 comply with the requirement for onsite availability of current
 33 service and adjustment procedures specified in paragraph (3) of
 34 subdivision (b) of Section 44030. A smog check technician
 35 employed by a smog check test-only station shall be qualified in
 36 accordance with this section.

37 (c) (1) The department shall supply a network of referees. A
 38 referee shall have no ownership interest in, or business or economic
 39 interest with, a smog check station. Referees may issue repair cost
 40 waivers, certificates of compliance or noncompliance, and hardship

1 extensions, in accordance with regulations adopted by the
2 department, and promote automotive training through community
3 colleges and other training institutions certified by the department
4 pursuant to Section 44030.5. Referees shall provide inspection
5 services for specially constructed vehicles pursuant to Section
6 44017.4 and Section 9565 of the Vehicle Code and issue exhaust
7 system certificates of compliance in accordance with Section
8 27150.2 of the Vehicle Code.

9 (2) The department may adopt regulations to establish
10 qualification standards and any special administrative, operational,
11 and licensure standards that the department determines to be
12 necessary for the provision of referee services.

13 (3) The department may adopt, by regulation, a process by which
14 vehicles that present prohibitive or unusual inspection
15 circumstances are inspected by referees, including, but not limited
16 to, the inspection of vehicles in which the manufacturer's physical
17 or operational design presents inspection incompatibilities, vehicles
18 equipped with emission control configurations that do not match
19 United States Environmental Protection Agency or state board
20 certified configurations, including direct import vehicles and
21 vehicles with engine changes, and vehicles equipped with retrofit
22 alternative fuel conversion kits.

23 (4) (A) A referee may charge a fee sufficient to cover the costs
24 of providing referee services for inspections of specially
25 constructed vehicles pursuant to Section 44017.4 and Section 9565
26 of the Vehicle Code, inspections pursuant to Section 27150.2 of
27 the Vehicle Code, and other appropriate categories of referee
28 services as determined by the department. Requirements applicable
29 to the fee, including its amount, shall be established by the
30 department by regulation and the amount may be adjusted to reflect
31 changes in the Consumer Price Index, as published by the United
32 States Bureau of Labor Statistics. The fee may be collected by
33 either a contracted referee or by the department, if the department
34 is providing the referee service.

35 (B) If the fee is imposed and collected by a contracted referee,
36 the contracted referee shall deposit the fees collected from the
37 vehicle owner into a separate trust account that the referee shall
38 account for and manage in accordance with generally accepted
39 accounting practices.

1 (C) If the fee is imposed and collected by the department, the
2 fees shall be deposited into the Vehicle Inspection and Repair
3 Fund.

4 (d) A smog check station may also be licensed as a repair-only
5 station, and if so licensed, may perform repairs to reduce excessive
6 emissions on vehicles which have failed the smog check test.
7 Repair procedures and equipment requirements shall be established
8 by the department. Technicians employed by a smog check
9 repair-only station shall be qualified in accordance with this
10 section.

11 (e) Smog check technicians are qualified to test and repair only
12 those classes and categories of vehicles for which they have passed
13 a qualification test administered by the department. The department
14 shall provide for smog check technicians to be qualified for
15 different categories of motor vehicle inspection based on vehicle
16 classification and model-year.

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

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

23 44014.2. (a) The department shall develop a program for the
24 voluntary certification of licensed smog check stations, or the
25 department may accept a smog check station certification program
26 proposed by accredited industry representatives. The certification
27 program, which may be called a “gold shield” program, shall be
28 for the purpose of providing consumers, whose vehicles fail an
29 emissions test at a test-only facility, an option of services at a single
30 location to prevent the necessity for additional trips back to the
31 test-only facility for vehicle certification. The department shall
32 establish inspection-based performance standards consistent with
33 Section 44014.6 for stations certified under this program that the
34 stations would be required to meet to be eligible to issue certificates
35 of compliance or noncompliance for vehicles selected pursuant to
36 Sections 44010.5 and 44014.7, or vehicles identified by the
37 department as gross polluters.

38 (b) The department shall adopt regulations that apply to all
39 enhanced areas of the state, including those areas subject to the

1 enhanced program pursuant to Section 44003.5, that permit both
2 of the following:

3 (1) Any vehicle that fails a required smog test at a test-only
4 facility may be repaired, retested, and certified at a facility licensed
5 pursuant to Section 44014, and certified pursuant to subdivision
6 (a).

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

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

13 (d) An agreement made pursuant to this section shall not be
14 deemed to be a contract subject to the requirements of Part 2
15 (commencing with Section 10100) of Division 2 of the Public
16 Contract Code.

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

19 44014.5. (a) The enhanced program shall provide for the
20 testing and retesting of vehicles in accordance with Sections
21 44010.5 and 44014.2 and this section.

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

29 (c) The department shall make available to consumer of test-only
30 facilities a list, compiled by region, of smog check stations licensed
31 to make repairs of vehicular emission control systems. A test-only
32 facility shall not refer a vehicle owner to any particular provider
33 of vehicle repair services in which the test-only facility has a
34 financial interest.

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

37 (2) (A) The department shall establish inspection-based
38 performance standards consistent with Section 44014.6 that
39 test-only stations would be required to meet to be eligible to issue
40 certificates of compliance or noncompliance for vehicles selected

1 pursuant to Section 44010.5 or 44014.7, or vehicles identified by
2 the department as gross polluters. Failure at any time to meet these
3 standards shall result in suspension of the certification to test these
4 vehicles granted by the department. A test-only station not meeting
5 the performance standards may continue to issue certificates of
6 compliance and noncompliance for other vehicles. The department
7 shall adopt measures to ensure the requirements of this
8 subparagraph are met, including through the use of the computer
9 database and computer network authorized by Section 44037.1.

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

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

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

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

39 (f) The test-only facility may charge a fee, established by the
40 department, sufficient to cover the facility's cost to perform the

1 tests or services, including, but not limited to, referee services and
2 the issuance of waivers and hardship extensions required by this
3 chapter. In addition, the station shall charge and collect the
4 certificate fee established pursuant to Section 44060. This
5 subdivision shall apply only to facilities contracted for pursuant
6 to subdivision (e) of Section 44010.5.

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

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

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

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

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

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

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

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

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

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

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

1 not have any defects with its emission control system or any defects
2 that could lead to damage of its emission control system, as
3 provided in regulations adopted by the department.

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

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

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

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

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

26 44015. (a) A licensed smog check station shall not issue a
27 certificate of compliance, except as authorized by this chapter, to
28 any vehicle that meets the following criteria:

29 (1) A vehicle that has been tampered with.

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

39 (3) A vehicle that, prior to repairs, has been initially identified
40 by the smog check station as a gross polluter. Certification of a

1 gross polluting vehicle shall be conducted by a designated test-only
2 facility, or a test-and-repair station that is both licensed and
3 certified pursuant to Sections 44014 and 44014.2.

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

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

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

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

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

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

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

13 (A) A direct import motor vehicle.

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

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

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

18 (E) An alternate fuel vehicle.

19 (F) A specially constructed vehicle.

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

22 (f) Excluding any vehicle whose transfer of ownership and
23 registration is described in subdivision (d) of Section 4000.1 of
24 the Vehicle Code, and except as otherwise provided in Sections
25 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a
26 licensed motor vehicle dealer shall be responsible for having a
27 smog check inspection performed on, and a certificate of
28 compliance or noncompliance issued for, every motor vehicle
29 offered for retail sale. A certificate issued to a licensed motor
30 vehicle dealer shall be valid for a two-year period, or until the
31 vehicle is sold and registered to a retail buyer, whichever occurs
32 first.

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

35 SEC. 9. Section 44024.5 of the Health and Safety Code is
36 amended to read:

37 44024.5. (a) The department shall compile and maintain
38 statistical and emissions profiles and data from motor vehicles that
39 are subject to the motor vehicle inspection program. The
40 department may use data from any source, including remote sensing

1 data, in use data, and other motor vehicle inspection program data,
2 to develop and confirm the validity of the profiles, to evaluate the
3 program, and to assess the performance of smog check stations.
4 The department shall undertake these requirements directly or seek
5 a qualified vendor for these services.

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

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

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

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

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

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

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

34 (7) A comparison to the findings of the report "Evaluation of
35 the California Smog Check Program Using Random Roadside
36 Data" dated March 12, 2009.

37 (c) The department and the state board, in consultation with the
38 Inspection and Maintenance Review Committee, may determine
39 that, in addition to the vehicles excepted pursuant to Section 44011,
40 certain other motor vehicles may be excepted from the biennial

1 certification requirements of this chapter without significantly
2 compromising the emission reduction objectives set forth in the
3 State Implementation Plan (SIP).

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

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

29 SEC. 10. Section 44036 of the Health and Safety Code is
30 amended to read:

31 44036. (a) The consumer protection-oriented quality assurance
32 portion of the motor vehicle inspection program shall ensure
33 uniform and consistent tests and repairs by all qualified smog check
34 technicians and licensed smog check stations throughout the state,
35 and shall include a number of stations providing referee functions
36 available to consumers.

37 (b) (1) All licensed smog check stations shall utilize original
38 equipment and replacement parts that are certified by the
39 department. The department may enter into a contract for the
40 supply or service of certified equipment with the manufacturers

1 and service providers of this equipment. The department shall
2 afford to the smog check station the option to purchase the
3 equipment or service directly from the contractor or any other
4 provider of certified equipment or service, as determined by the
5 department. A contract executed pursuant to this paragraph may
6 authorize compensation to the contractor as provided in subdivision
7 (c) of Section 44037.2.

8 (2) The department shall charge a fee for certification testing
9 of the equipment or the replacement parts. The fee for certification
10 testing of equipment shall be fixed by the department based upon
11 its actual costs of certification testing, shall be calculated from the
12 time that the equipment is submitted for certification testing until
13 the time that the certification testing is complete, and shall not
14 exceed ten thousand dollars (\$10,000). The fee for certification
15 testing of replacement parts shall be determined by the department
16 based upon its actual costs of certification testing, shall be
17 calculated from the time that the replacement part is submitted for
18 certification testing until the time that the certification testing is
19 complete, and shall not exceed two thousand five hundred dollars
20 (\$2,500).

21 (3) The department shall adopt, and may revise, standards for
22 certification and decertification of the equipment, that may include
23 a device for testing of emissions of oxides of nitrogen. The
24 department shall adopt, and update as necessary, equipment
25 standards that may include a test analyzer system containing any
26 or all of the following components:

27 (A) A microprocessor to control test sequencing, selection of
28 proper test standards, the automatic pass or fail decision, and the
29 format for the test report and the recorded data file. The
30 microprocessor shall be capable of using a standardized
31 programming language specified by the department.

32 (B) An exhaust gas analysis portion with an analyzer for
33 hydrocarbons, carbon monoxide, and carbon dioxide that is
34 designed to accommodate an optional oxides of nitrogen analyzer.
35 An oxides of nitrogen analyzer shall be required in the enhanced
36 program areas.

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

39 (D) A device to accept and record motor vehicle identification
40 information, including a device capable of reading barcode

1 information pursuant to regulations of the state board. The device
2 shall have the ability to identify, with the cooperation of the
3 Department of Motor Vehicles, smog inspections performed on
4 vehicles sold by used car dealers.

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

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

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

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

17 (I) One or more communications ports conforming to the
18 specifications established by the department as necessary to provide
19 real time communication, or communication that is consistent with
20 maintaining a superior quality assurance program and efficient
21 information transfer, between the test equipment and the centralized
22 computer database through the computer network maintained by
23 the department pursuant to Section 44037.1.

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

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

31 (L) Any other features that the department determines are
32 necessary to increase the effectiveness of the program, including,
33 but not limited to, a loaded mode dynamometer for purposes of
34 oxides of nitrogen detection, and other equipment necessary to
35 detect nonexhaust-related volatile organic compound emissions,
36 such as those found in fuel system evaporative emissions and
37 crankcase ventilation emissions.

38 (c) (1) The department shall not require smog check stations
39 to use equipment that meets revised standards for certification and

1 decertification of equipment pursuant to subdivision (b) earlier
2 than January 1, 2013.

3 (2) If existing smog check stations licenced pursuant to this
4 chapter or training institutions certified pursuant to Section 44030.5
5 are required to make investments of more than ten thousand dollars
6 (\$10,000) to acquire equipment to meet the requirements of this
7 subdivision, the department shall submit recommendations to the
8 Governor and the Legislature for any appropriate mitigation
9 measures, including, but not limited to, subsidies, equipment leases,
10 grants, or loans.

11 (3) The department may defer the requirement for any
12 equipment, external to the chassis of the test analyzer system,
13 needed to read barcode information, until a substantial portion of
14 the vehicles subject to this chapter are equipped with barcode
15 labels.

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

20 (d) The quality assurance portion shall provide for inspections
21 of licensed smog check stations, data collection and forwarding,
22 equipment accuracy checks, operation of referee stations, and other
23 necessary functions. If the services are contracted for pursuant to
24 subdivision (e) of Section 44014, the department shall prepare
25 detailed specifications and solicit bids from private entities for the
26 implementation of the quality assurance functions.

27 (e) The department may revise the specifications for equipment
28 annually if the cost thereof is less than 20 percent of the total
29 system cost. A more comprehensive revision to the specifications
30 may be required not more often than every five years.

31 (f) (1) Equipment manufacturers shall furnish to the department,
32 and shall install, software and hardware updates as specified by
33 the department. The department shall allow equipment
34 manufacturers six months, from the date the department issues its
35 proposed specifications for periodic software and hardware updates,
36 to obtain department approval that the updates meet the proposed
37 specifications and to install the updates in all equipment subject
38 to the updates. During the first 30 days of the six-month period,
39 the manufacturers shall be permitted to review and to comment
40 upon the proposed specifications. However, notwithstanding any

1 other provision of this section, the department may order
2 manufacturers to install software and hardware changes in a shorter
3 period of time upon a finding by the department that a previously
4 installed update does not meet current specifications.

5 (2) The department may establish hardware specifications,
6 performance standards, and operational requirements for the
7 certification and continuing certification of the equipment specified
8 in subdivision (b).

9 (3) A manufacturer's failure to furnish or install required
10 software updates or to meet the specifications, standards, or
11 requirements established pursuant to paragraph (2), is cause for
12 the department to decertify the manufacturer's test analyzer system
13 or to issue a citation to the manufacturer. The citation shall specify
14 the nature of the violation and may specify a civil penalty not to
15 exceed one thousand dollars (\$1,000) for each day the manufacturer
16 fails to furnish or install the specified software updates by the
17 specified period. In assessing a civil penalty pursuant to this
18 paragraph, the department shall give due consideration, in
19 determining the appropriateness of the amount of the civil penalty,
20 to factors such as the gravity of the violation, the good faith of the
21 manufacturer, and the history of previous violations.

22 (4) The citations shall be served pursuant to subdivision (c) of
23 Section 11505 of the Government Code. The manufacturer may
24 request a hearing in accordance with Chapter 5 (commencing with
25 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
26 Code. A request for a hearing shall be submitted in writing within
27 30 days of service of the citation, and shall be delivered to the
28 office of the department in Sacramento. Hearings and related
29 procedures under this paragraph shall be conducted in the same
30 manner as proceedings for adjudication of an accusation under
31 that Chapter 5, except as otherwise specified in this article.

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

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

1 SEC. 11. Section 44050 of the Health and Safety Code is
2 repealed.

3 SEC. 12. Section 44050 is added to the Health and Safety Code,
4 to read:

5 44050. (a) In addition to or in lieu of any other remedy or
6 penalty, including, but not limited to, education, training, or an
7 office conference, the department may issue a citation to a licensee,
8 contractor, or fleet owner for a violation of the requirements of
9 this chapter or a regulation adopted pursuant to this chapter. The
10 citation may contain an order of abatement or the assessment of
11 an administrative fine, or both.

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

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

19 (2) The persistence of the violation.

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

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

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

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

26 (7) The failure to make restitution to consumers affected by the
27 violation.

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

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

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

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

37 (1) The licensee, contractor, or fleet owner to whom the citation
38 is issued to demonstrate how future compliance with this chapter,
39 and regulations adopted pursuant to this chapter, will be

1 accomplished. This demonstration may include, but is not limited
2 to, submission of a corrective action plan.

3 (2) The smog check technician to successfully complete one or
4 more retraining courses prescribed by the department pursuant to
5 subdivision (c) of Section 44031.5, or successfully complete one
6 or more advanced retraining courses prescribed by the department,
7 or both.

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

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

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

32 (f) *The department shall adopt regulations to establish*
33 *procedures, including a penalty schedule, for assessing fines or*
34 *penalties for violations of a requirement of this chapter or a*
35 *regulation adopted pursuant to this chapter.*

36 (f)

37 (g) Administrative fines collected pursuant to this section shall
38 be deposited in the High Polluter Repair or Removal Account
39 within the Vehicle Inspection and Repair Fund.

1 SEC. 13. Section 44050.5 of the Health and Safety Code is
2 repealed.

3 SEC. 14. Section 44051 of the Health and Safety Code is
4 repealed.

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

7 44051. (a) If a person cited pursuant to Section 44050 wishes
8 to contest the citation, that person shall, within 30 days after service
9 of the citation, file in writing a request for an administrative hearing
10 to the chief of the bureau or a designee.

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

16 (2) Upon receipt of a written request for an informal citation
17 conference, the chief of the bureau or a designee shall, within 60
18 days of the request, hold an informal citation conference with the
19 person requesting the conference. The cited person may be
20 accompanied and represented by an attorney or other authorized
21 representative.

22 (3) If an informal citation conference is held, the request for an
23 administrative hearing shall be deemed withdrawn and the chief
24 of the bureau, or designee, may affirm, modify, or dismiss the
25 citation at the conclusion of the informal citation conference. If
26 so affirmed or modified, the citation originally issued shall be
27 considered withdrawn and an affirmed or modified citation,
28 including reasons for the decision, shall be issued. The affirmed
29 or modified citation shall be mailed to the cited person and that
30 person's counsel, if any, within 10 days of the date of the informal
31 citation conference.

32 (4) If a cited person wishes to contest a citation affirmed or
33 modified pursuant to paragraph (3), the person shall, within 30
34 days after service of the modified or affirmed citation, contest the
35 affirmed or modified citation by submitting a written request for
36 an administrative hearing to the chief of the bureau or a designee.
37 An informal citation conference shall not be held on affirmed or
38 modified citations.

39 SEC. 16. Section 44051.5 of the Health and Safety Code is
40 repealed.

1 SEC. 17. Section 44052 of the Health and Safety Code is
2 amended to read:

3 44052. (a) If a citation lists more than one violation, the
4 amount of the civil penalty or administrative fine assessed shall
5 be stated separately for each statute and regulation violated.

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

9 SEC. 18. Section 44053 of the Health and Safety Code is
10 repealed.

11 SEC. 19. Section 44054 of the Health and Safety Code is
12 repealed.

13 SEC. 20. Section 44055 of the Health and Safety Code is
14 amended to read:

15 44055. (a) Any failure by an applicant for a license or for the
16 renewal of a license, or by any partner, officer, or director thereof,
17 to comply with the final order of the department for the payment
18 of an administrative fine, or to pay the amount specified in a
19 settlement executed by the applicant and the Director of the
20 Department of Consumer Affairs, shall result in denial of a license
21 or of the renewal of the license. The department shall not allow
22 the issuance of any certificate of compliance or noncompliance
23 by a licensee until all civil penalties and administrative fines which
24 have become final, or amounts agreed to in a settlement, have been
25 paid by the licensee.

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

30 SEC. 21. Section 44056 of the Health and Safety Code is
31 amended to read:

32 44056. (a) In addition to an administrative fine pursuant to
33 Section 44050, any person who violates this chapter, or any order,
34 rule, or regulation of the department adopted pursuant to this
35 chapter, is liable for a civil penalty of not more than five thousand
36 dollars (\$5,000) for each day in which each violation occurs. Any
37 action to recover civil penalties shall be brought by the Attorney
38 General in the name of the state on behalf of the department, or
39 may be brought by any district attorney, city attorney, or attorney
40 for a district. In assessing a civil penalty pursuant to this

1 subdivision, due consideration shall be given to the factors
2 identified in subdivision (b) of Section 44050.

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

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

9 (2) Obtains, or attempts to obtain, a certificate of compliance,
10 a repair cost waiver, or an economic hardship extension by means
11 of fraud, including, but not limited to, offering or giving any form
12 of financial or other inducement to any person for the purpose of
13 obtaining a certificate of compliance for a vehicle that has not been
14 tested or has been tested improperly.

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

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

22 (c) Any person who obtains or attempts to obtain a repair cost
23 waiver, or economic hardship extension pursuant to this chapter
24 by falsifying information shall be subject to a civil penalty of not
25 more than five thousand dollars (\$5,000), and shall be made
26 ineligible for receiving any repair assistance of any kind pursuant
27 to this chapter.

28 (d) Any person who obtains or attempts to obtain a certificate
29 of compliance pursuant to this chapter by falsifying information
30 shall be subject to a civil penalty of not more than five thousand
31 dollars (\$5,000).