

AMENDED IN SENATE AUGUST 2, 2010

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 newer vehicles only, beginning
6 no earlier than January 1, 2013. However, the department, in
7 consultation with the state board, may prescribe alternative test
8 procedures that include loaded mode dynamometer or two-speed
9 idle testing for vehicles with ~~emission problems that may not be~~
10 ~~adequately detected by their onboard diagnostic systems, including~~
11 ~~requiring vehicles that have failed, or are likely to fail, their~~
12 ~~onboard diagnostic test, when evidence suggests they would have~~
13 ~~likely passed a tailpipe test, to be tested using a loaded mode~~
14 ~~dynamometer or two-speed idle test in lieu of an onboard diagnostic~~
15 ~~test on-board diagnostic systems that the department and the state~~
16 ~~board determine exhibit operational problems.~~ The department
17 shall ensure, as appropriate to the 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 onboard diagnostic test and a tailpipe test to assess whether any
14 vehicles passing their onboard diagnostic test have, or would have,
15 failed a tailpipe test, and whether any vehicles failing their onboard
16 diagnostic test have or would have passed a tailpipe test.

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

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

25 44014. (a) Except as otherwise provided in this chapter, the
26 testing and repair portion of the program shall be conducted by
27 smog check stations licensed by the department, and by smog
28 check technicians who have qualified pursuant to this chapter.

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

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

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

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

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

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

34 (B) If the fee is imposed and collected by a contracted referee,
35 the contracted referee shall deposit the fees collected from the
36 vehicle owner into a separate trust account that the referee shall
37 account for and manage in accordance with generally accepted
38 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~~ *consumers*
30 of test-only facilities a list, compiled by region, of smog check
31 stations licensed to make repairs of vehicular emission control
32 systems. A test-only facility shall not refer a vehicle owner to any
33 particular provider of vehicle repair services in which the test-only
34 facility has a 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 *or shall be made electronically*.
17 Receipt of this hearing request shall stay the suspension pending
18 the outcome of the hearing. If a request for hearing is not made,
19 the chief of the bureau shall issue a final written decision of
20 suspension within 10 days of the last date that a hearing could have
21 been requested.

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

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

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

1 (f) The test-only facility may charge a fee, established by the
2 department, sufficient to cover the facility's cost to perform the
3 tests or services, including, but not limited to, referee services and
4 the issuance of waivers and hardship extensions required by this
5 chapter. In addition, the station shall charge and collect the
6 certificate fee established pursuant to Section 44060. This
7 subdivision shall apply only to facilities contracted for pursuant
8 to subdivision (e) of Section 44010.5.

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

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

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

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

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

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

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

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

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

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

37 (i) Gross polluters shall be referred to a test-only facility, or a
38 test-and-repair station that is both licensed and certified pursuant
39 to Sections 44014 and 44014.2, for a postrepair inspection and
40 retest pursuant to subdivision (g). Passing the emissions test is not

1 a sufficient condition for receiving a certificate of compliance. A
2 certificate of compliance shall only be issued to a vehicle that does
3 not have any defects with its emission control system or any defects
4 that could lead to damage of its emission control system, as
5 provided in regulations adopted by the department.

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

8 44014.6. (a) The inspection-based performance standards
9 created *for the certification program established* pursuant to
10 subdivision (a) of Section 44014.2 and ~~the inspection-based~~
11 ~~performance standards created pursuant to paragraph (2) of~~ *created*
12 *pursuant to* subdivision (d) of Section 44014.5 shall be based on
13 the same criteria.

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

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

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

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

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

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

1 or the vehicle shall be reinspected by a referee or another smog
2 check station.

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

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.

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

1 44024.5. (a) The department shall compile and maintain
2 statistical and emissions profiles and data from motor vehicles that
3 are subject to the motor vehicle inspection program. The
4 department may use data from any source, including remote sensing
5 data, in use data, and other motor vehicle inspection program data,
6 to develop and confirm the validity of the profiles, to evaluate the
7 program, and to assess the performance of smog check stations.
8 The department shall undertake these requirements directly or seek
9 a qualified vendor for these services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (L) Any other features that the department determines are
36 necessary to increase the effectiveness of the program, including,
37 but not limited to, a loaded mode dynamometer for purposes of
38 oxides of nitrogen detection, and other equipment necessary to
39 detect nonexhaust-related volatile organic compound emissions,

1 such as those found in fuel system evaporative emissions and
2 crankcase ventilation emissions.

3 (c) (1) The department shall not require smog check stations
4 to use equipment that meets revised standards for certification and
5 decertification of equipment pursuant to subdivision (b) earlier
6 than January 1, 2013.

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

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

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

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

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

35 (f) (1) Equipment manufacturers shall furnish to the department,
36 and shall install, software and hardware updates as specified by
37 the department. The department shall allow equipment
38 manufacturers six months, from the date the department issues its
39 proposed specifications for periodic software and hardware updates,
40 to obtain department approval that the updates meet the proposed

1 specifications and to install the updates in all equipment subject
2 to the updates. During the first 30 days of the six-month period,
3 the manufacturers shall be permitted to review and to comment
4 upon the proposed specifications. However, notwithstanding any
5 other provision of this section, the department may order
6 manufacturers to install software and hardware changes in a shorter
7 period of time upon a finding by the department that a previously
8 installed update does not meet current specifications.

9 (2) The department may establish hardware specifications,
10 performance standards, and operational requirements for the
11 certification and continuing certification of the equipment specified
12 in subdivision (b).

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

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

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

39 (6) Any failure to comply with the final order of the department
40 for payment of a civil penalty, or to pay the amount specified in

1 any settlement executed by the licensee and the Director of
2 Consumer Affairs, is cause for decertification of the manufacturer's
3 test analyzer system.

4 SEC. 11. Section 44050 of the Health and Safety Code is
5 repealed.

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

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

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

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

22 (2) The persistence of the violation.

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

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

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

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

29 (7) The failure to make restitution to consumers affected by the
30 violation.

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

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

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

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

- 1 (1) The licensee, contractor, or fleet owner to whom the citation
2 is issued to demonstrate how future compliance with this chapter,
3 and regulations adopted pursuant to this chapter, will be
4 accomplished. This demonstration may include, but is not limited
5 to, submission of a corrective action plan.
- 6 (2) The smog check technician to successfully complete one or
7 more retraining courses prescribed by the department pursuant to
8 subdivision (c) of Section 44031.5, or successfully complete one
9 or more advanced retraining courses prescribed by the department,
10 or both.
- 11 (3) The smog check technician to perform no inspection or
12 repair pursuant to this chapter until training courses prescribed by
13 the department are successfully completed.
- 14 (d) A citation issued pursuant to this section shall be in writing
15 and shall describe the nature of the violation and the specific
16 provision of law determined to have been violated. The citation
17 shall inform in writing the licensee, contractor, or fleet owner of
18 the right to request a hearing, as described in Section 44051. If a
19 hearing is not requested, payment of the administrative fine shall
20 not constitute an admission of the violation charged. If a hearing
21 is requested, the department shall provide a hearing in accordance
22 with Chapter 5 (commencing with Section 11500) of Part 1 of
23 Division 3 of Title 2 of the Government Code, except insofar as
24 those provisions are inconsistent with the provisions of this article.
25 Payment of the administrative fine shall be due 30 days after the
26 citation was issued if a hearing is not requested, or when a final
27 order is entered if a hearing is requested. The department may
28 enforce the administrative fine as if it were a money judgment
29 pursuant to Title 9 (commencing with Section 680.010) of Part 2
30 of the Code of Civil Procedure.
- 31 (e) Failure to comply with an order of abatement or payment
32 of an administrative fine issued by the department pursuant to this
33 section is grounds for suspension or revocation of the license, or
34 placing the licensee on probation.
- 35 (f) The department shall adopt regulations to establish
36 procedures, including a penalty schedule, for assessing fines or
37 penalties for violations of a requirement of this chapter or a
38 regulation adopted pursuant to this chapter.

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

4 SEC. 13. Section 44050.5 of the Health and Safety Code is
5 repealed.

6 SEC. 14. Section 44051 of the Health and Safety Code is
7 repealed.

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

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

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

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

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

35 (4) If a cited person wishes to contest a citation affirmed or
36 modified pursuant to paragraph (3), the person shall, within 30
37 days after service of the modified or affirmed citation, contest the
38 affirmed or modified citation by submitting a written request for
39 an administrative hearing to the chief of the bureau or a designee.

1 An informal citation conference shall not be held on affirmed or
2 modified citations.

3 SEC. 16. Section 44051.5 of the Health and Safety Code is
4 repealed.

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

7 44052. (a) If a citation lists more than one violation, the
8 amount of the civil penalty or administrative fine assessed shall
9 be stated separately for each statute and regulation violated.

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

13 SEC. 18. Section 44053 of the Health and Safety Code is
14 repealed.

15 SEC. 19. Section 44054 of the Health and Safety Code is
16 repealed.

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

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

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

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

36 44056. (a) In addition to an administrative fine pursuant to
37 Section 44050, any person who violates this chapter, or any order,
38 rule, or regulation of the department adopted pursuant to this
39 chapter, is liable for a civil penalty of not more than five thousand
40 dollars (\$5,000) for each day in which each violation occurs. Any

1 action to recover civil penalties shall be brought by the Attorney
2 General in the name of the state on behalf of the department, or
3 may be brought by any district attorney, city attorney, or attorney
4 for a district. In assessing a civil penalty pursuant to this
5 subdivision, due consideration shall be given to the factors
6 identified in subdivision (b) of Section 44050.

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

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

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

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

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

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

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