

AMENDED IN SENATE AUGUST 13, 1996

AMENDED IN SENATE JULY 15, 1996

AMENDED IN SENATE JULY 10, 1996

AMENDED IN ASSEMBLY APRIL 23, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2515

Introduced by Assembly Member Bowler

February 21, 1996

An act to amend Sections 44010.5, 44014.5, and 44033 of, and to add Sections 44000.5, 44014.2 ~~and 44014.4~~, 44014.4, and 44037.2 to, the Health and Safety Code, *and to amend Section 3016 of the Vehicle Code*, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2515, as amended, Bowler. Vehicle inspection and maintenance.

(1) Existing law establishes a motor vehicle inspection and maintenance program in which vehicles are tested and repaired by licensed smog check stations. Existing law requires the Department of Consumer Affairs to establish a network of test-only stations pursuant to contract, and to require a specified percentage of vehicles to be tested at test-only stations.

This bill would require the department, if it increases the capacity of the program for testing at test-only stations, to

afford licensed stations *operating in an enhanced area* the opportunity to perform the required inspections. The bill would require initial contracts for the establishment of test-only ~~stations~~ *facilities* to terminate *not later than 7 years* from the date of execution. The bill would require the department to develop a program for the voluntary certification of licensed smog check stations pursuant to which consumers, whose vehicles fail an emissions test at a test-only ~~station~~ *facility*, would be given the option of ~~repair~~ services at a single location and would prescribe related matters. *The bill would also authorize the department to conduct a pilot program to determine the comparative effectiveness for facilities testing vehicles.*

(2) *Existing law requires the department to design and establish the equipment necessary to operate a centralized computer data base and computer network which is readily accessible by all licensed smog check technicians on a real time basis and requires the data base and network to be designed with specified capabilities. Existing law requires each smog check station to transmit prescribed data to the department's centralized data base.*

This bill would authorize the department to enter into a contract for telecommunication, programming, data analysis, data processing, and other services necessary to operate and maintain the data base and network and to charge a licensed smog check station a transaction fee for each transmittal of data to the data base, as specified.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. 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 44000.5 is added to the Health
 2 and Safety Code, to read:
 3 44000.5. (a) The Legislature further finds and
 4 declares that the motor vehicle inspection and
 5 maintenance program implemented under this chapter
 6 has, since 1984, provided beneficial emission reductions



1 without undue inconvenience to California vehicle
2 owners, and vehicle owners will benefit from the
3 maintenance by the state of a substantially decentralized
4 program giving them a choice among thousands of
5 independent licensed stations able to perform both
6 inspection and repair of vehicles.

7 (b) With the enactment of this chapter, the
8 Legislature does not intend to create a statutory
9 presumption that any motor vehicle, solely by virtue of
10 make, model, or year of manufacture, shall be classified
11 or categorized as a “gross polluter” or a “gross polluting
12 vehicle.”

13 (c) (1) With the enactment of this chapter, the
14 Legislature does not intend to place an unreasonable
15 burden on fleet vehicles with respect to compliance with
16 smog inspection and maintenance regulations.

17 ~~(2) In accordance with subdivision (g) of Section~~
18 ~~44020, vehicles for hire and vehicles with high mileage,~~
19 ~~defined as vehicles that incur 50,000 miles or more each~~
20 ~~year, shall be the only fleet vehicles subject to centralized~~
21 ~~testing.~~

22 *(2) Fleet vehicles shall not be included in the*
23 *certification requirements established pursuant to*
24 *Section 44014.7.*

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

27 44010.5. (a) The department shall implement a
28 program with the capacity to commence, by January 1,
29 1995, the testing at test-only ~~stations~~ *facilities*, in
30 accordance with this chapter, of 15 percent of that
31 portion of the total state vehicle fleet consisting of
32 vehicles subject to inspection each year in the biennial
33 program and that are registered in the enhanced
34 program area, as established pursuant to paragraph (1) of
35 subdivision (a) of Section 44003.

36 (b) (1) The department shall increase the capacity of
37 the program so that the capacity exists to commence, by
38 January 1, 1996, the testing at test-only ~~stations~~ *facilities*
39 of that portion of the state vehicle fleet that is subject to
40 inspection and is registered in the enhanced program



1 area, which is sufficient to meet the emission reduction
2 performance standards established by the
3 Environmental Protection Agency in regulations
4 adopted pursuant to the Clean Air Act Amendments of
5 1990, taking into account the results of the pilot
6 demonstration program established pursuant to Section
7 44081.6.

8 (2) Upon increasing the capacity of the program
9 pursuant to paragraph (1), the department shall afford
10 smog check stations *operating in an enhanced area* that
11 are licensed as test-only stations the initial opportunity to
12 perform the required inspections. The department shall
13 adopt, by regulation, the ~~methodology~~ *requirements* to
14 provide that initial opportunity.

15 (3) If the department determines that there is an
16 insufficient number of licensed test-only smog check
17 stations operating in an enhanced area to meet the
18 increased demand for test-only inspections, the
19 department may increase the capacity of the program by
20 utilizing existing contracts.

21 (c) The program shall utilize loaded mode
22 dynamometer test equipment, as determined through
23 the pilot demonstration program.

24 (d) Vehicles in the enhanced program area which are
25 not subjected to the program established by this section
26 may be tested at smog check stations licensed pursuant to
27 Section 44014 that use loaded mode dynamometers.

28 (e) (1) The department shall implement the
29 program established pursuant to subdivision (a) through
30 a network of privately operated test-only ~~—stations~~
31 *facilities* established pursuant to contracts to be awarded
32 pursuant to this section.

33 (2) The initial contracts awarded pursuant to this
34 section shall terminate *not later than* seven years from
35 the date that the contracts were executed.

36 (f) No person shall be a contractor of the department
37 for test-only ~~—stations~~ *facilities* in all air basins, exclusively,
38 where the enhanced program is in effect unless the
39 department determines, after a public hearing, that there
40 is not more than one qualified contractor. The South



1 Coast Air Basin shall have at least two contractors, and the
2 combined enhanced program area that includes
3 Bakersfield, Fresno, and Sacramento shall have at least
4 two contractors. The department may operate test-only
5 ~~stations~~ *facilities* on an interim basis while contractors are
6 being sought.

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

10 (2) The department shall first determine which
11 bidders are qualified, and then award the contract to the
12 qualified bidder, giving priority to the test cost and
13 convenience to motorists.

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

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

22 (B) Up to 5 percent to bidders based on the extent to
23 which bidders maximize the potential economic benefit
24 of the smog check program on this state over the term of
25 the contract. That potential economic benefit shall
26 include the percentage of work performed by
27 California-based firms, the potential of the total project
28 work force who will be California residents, and the
29 percentage of subcontracts that will be awarded to
30 California-based firms.

31 (4) Any contract executed by the department for the
32 operation of a test-only ~~station~~ *facility* shall expressly
33 require compliance with this chapter and any regulations
34 adopted by the department pursuant to this chapter.

35 (h) The department shall ensure that there is a
36 sufficient number of test-only ~~stations~~ *facilities*, and that
37 they are properly located, to ensure reasonable
38 accessibility and convenience to all persons within an
39 enhanced program area, and that the waiting time for
40 consumers is minimized. The department may operate



1 test-only ~~stations~~ *facilities* on an interim basis to ensure
2 convenience to consumers. The department shall specify
3 in the request for proposal the minimum number of
4 test-only ~~stations~~ *facilities* that are required for the
5 program. Any contracts initially awarded pursuant to this
6 section shall ensure that the contractors are capable of
7 fulfilling the requirements of subdivision (a).

8 (i) Any data generated at a test-only ~~station~~ *facility*
9 shall be the property of the state, and shall be fully
10 accessible to the department at any time. The
11 department may set contract specifications for the
12 storage of that data in a central data storage system or
13 facility designated by the department.

14 (j) The department shall ensure an effective transition
15 to the new program by implementing an effective public
16 education program and may specify in the request for
17 proposal a dollar amount that bidders are required to
18 include in their bids for public education activities, to be
19 implemented pursuant to Section 44070.5.

20 (k) The department shall ensure the effective
21 management of the test-only ~~stations~~ *facilities* and shall
22 specify in the request for proposal that a manager be
23 present during all hours of station operation.

24 (l) The department shall ensure and facilitate the
25 effective transition of employees of businesses that are
26 licensed or otherwise substantially participating in the
27 smog check program and may specify in the request for
28 proposal that test-only ~~station~~ *facility* management be
29 Automotive Service Excellence (ASE) certified, or be
30 certified by a comparable program as determined by the
31 department.

32 (m) As part of the contracts to be awarded pursuant
33 to subdivision (e), the department may require
34 contractors to perform functions previously undertaken
35 by referee stations throughout the state, as determined by
36 the department, at some or all of the affected stations in
37 enhanced areas, and at additional stations outside
38 enhanced areas only to the extent necessary to provide
39 appropriate access to referee functions.



1 (n) Notwithstanding any other provision of law, to
2 avoid delays to the program implementation timeline
3 required by this chapter or the Clean Air Act, the
4 Department of General Services, at the request of the
5 department, may exempt contracts awarded pursuant to
6 this section from existing laws, rules, resolutions, or
7 procedures that are otherwise applicable, including, but
8 not limited to, restrictions on awarding contracts for
9 more than three years. The department shall identify any
10 exemptions requested and granted pursuant to this
11 subdivision and report thereon to the Legislature.

12 (o) This section shall not be implemented unless the
13 memorandum of agreement described in Section 44081.6
14 is signed by both the California Environmental
15 Protection Agency and the Environmental Protection
16 Agency.

17 (p) The department shall implement the program
18 established in this section only in urbanized areas
19 classified by the Environmental Protection Agency as a
20 serious, severe, or extreme nonattainment area for ozone
21 or a moderate or serious nonattainment area for carbon
22 monoxide with a design value greater than 12.7 ppm, and
23 shall not implement the program in any other area.

24 (q) If existing smog check stations, in order to
25 participate in the enhanced program, have been
26 required to make additional investments of more than
27 ten thousand dollars (\$10,000), the department shall
28 submit recommendations to the Governor and the
29 Legislature for any appropriate mitigation measures.

30 SEC. 3. Section 44014.2 is added to the Health and
31 Safety Code, to read:

32 44014.2. The department shall develop a program for
33 the voluntary certification of licensed smog check
34 stations, or the department may accept a smog check
35 station certification program ~~administered by an~~
36 *proposed by* accredited industry ~~association approved by~~
37 ~~the department~~ *representatives*. Such a certification
38 program, which may be called a “gold shield” program,
39 shall be for the purpose of providing consumers, whose
40 vehicles fail an emissions test at a test-only ~~station~~ *facility*,



1 an option of repair services at a single location to prevent
2 the necessity for additional trips back to the test-only
3 ~~center~~ *facility* for vehicle certification.

4 SEC. 4. Section 44014.4 is added to the Health and
5 Safety Code, to read:

6 44014.4. (a) A licensed smog check station that has
7 been certified pursuant to Section 44014.2 may advertise
8 that fact, and the advertisement may include the scope of
9 work established by the program.

10 (b) It is an unfair business practice and a violation of
11 Section 17500 of the Business and Professions Code for
12 any licensed smog check station that is not so certified to
13 advertise as having obtained certification or as complying
14 with the scope of work, code of ethics, or certification
15 standards established by the certification program.

16 SEC. 5. Section 44014.5 of the Health and Safety Code
17 is amended to read:

18 44014.5. (a) The enhanced program shall provide for
19 the testing and retesting of vehicles in accordance with
20 Sections 44010.5, 44014.2, and this section.

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

30 (c) The department shall provide for the distribution
31 to consumers by test-only ~~stations~~ *facilities* of a list,
32 compiled by region, of smog check stations licensed to
33 make repairs of vehicular emission control systems. A
34 test-only ~~station~~ *facility* shall not refer a vehicle owner to
35 any particular provider of vehicle repair services.

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

39 (e) The department, ~~by regulation,~~ shall prohibit
40 test-only ~~stations~~ *facilities* from engaging in other



1 business activities that represent a conflict of interest, as
2 determined by the department.

3 (f) The test-only ~~station~~ *facility* may charge a fee,
4 established by the department, sufficient to cover the
5 ~~station's facility's~~ cost to perform the tests *or services*,
6 *including, but not limited to, referee services and the*
7 *issuance of waivers and hardship extensions* required by
8 this chapter. In addition, the station shall charge and
9 collect the certificate fee established pursuant to Section
10 44060. This subdivision shall apply only to ~~stations~~
11 *facilities* contracted for pursuant to subdivision (e) of
12 Section 44010.5.

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

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

19 (2) All vehicles identified by a smog check station
20 prior to repairs as having been tampered with.

21 (3) (A) Vehicles initially identified as gross polluters
22 by a smog check station licensed as a test-and-repair
23 station and certified pursuant to Section 44014.2 may be
24 ~~inspected prior to repairs for purposes of emissions~~
25 ~~testing at~~ *issued a certificate of compliance* by a test-only
26 facility or ~~at~~ by the licensed smog check station certified
27 pursuant to Section 44014.2 at which they were initially
28 identified as a gross polluter.

29 (B) *For purposes of this section, the department may*
30 *conduct a pilot program to determine the comparative*
31 *effectiveness of facilities for testing vehicles pursuant to*
32 *this article. The pilot program shall include a*
33 *state-contracted facilities and "enhanced" privately*
34 *owned test-only and test-and-repair facilities.*

35 (4) All vehicles designated by the department
36 pursuant to Sections 44014.7 and 44020.

37 (5) Vehicles issued an economic hardship extension in
38 the previous biennial inspection of that vehicle.

39 (h) The department shall provide a sufficient number
40 of test-only facilities authorized to perform referee



1 functions to provide convenient testing for those vehicles
2 that are required to report to, and receive a certificate of
3 compliance from, a test-only station by this chapter,
4 including all of the following:

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

8 (2) All vehicles unable to obtain a certificate of
9 compliance from a licensed smog check station pursuant
10 to subdivision (c) of Section 44015.

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

13 (i) (1) Gross polluters shall be referred to a test-only
14 facility for a postrepair inspection and retest pursuant to
15 subdivision (g). Simply passing the emissions test shall not
16 be a sufficient condition for receiving a certificate of
17 compliance. A certificate of compliance shall only be
18 issued to a vehicle which does not have any defects with
19 its emission control system or any defects which could
20 lead to damage of its emission control system, as provided
21 in regulations adopted by the department.

22 (2) The department shall require all vehicles which
23 are tested pursuant to this chapter and found to be gross
24 polluters, or which are found to have been tampered
25 with, to be tested annually at a test-only station for at least
26 two, but not more than five, consecutive years, as the
27 department determines to be necessary to ensure that
28 the program will comply with Environmental Protection
29 Agency performance standards.

30 SEC. 6. Section 44033 of the Health and Safety Code
31 is amended to read:

32 44033. (a) (1) Any facility meeting the
33 requirements established by the department pursuant to
34 this chapter may be licensed as a test-only, test and repair,
35 or repair-only smog check station. A licensed smog check
36 station shall display an identifying sign prescribed by the
37 department in a manner conspicuous to the public.

38 (2) A licensed smog check station certified pursuant to
39 Section 44014.2 shall display an identifying sign
40 prescribed by the department.



1 (b) No licensed or certified smog check station shall
2 require, as a condition of performing the test, that any
3 needed repairs or adjustment be done by the person, or
4 at the facility of the person, performing the test.

5 (c) If a motor vehicle, including a commercial vehicle,
6 is tested at a facility licensed to perform tests and repairs
7 pursuant to this chapter, the facility shall provide the
8 customer with a written estimate pursuant to Section
9 9884.9 of the Business and Professions Code. The written
10 estimate shall contain a notice to the customer stating
11 that the customer may choose another smog check station
12 to perform needed repairs, installations, adjustments, or
13 subsequent tests.

14 (d) Charges for testing or repair, or both, shall be
15 separately stated.

16 (e) The department shall require the posting of station
17 licenses and qualified technicians' certificates
18 prominently in each place of business so as to be readily
19 visible to the public.

20 SEC. 7. *Section 44037.2 is added to the Health and*
21 *Safety Code, to read:*

22 *44037.2. (a) The department may enter into a*
23 *contract for telecommunication, programming, data*
24 *analysis, data processing, and other services necessary to*
25 *operate and maintain the centralized computer data base*
26 *and computer network specified in Section 44037.1.*

27 *(b) The department may, for each transmittal of data*
28 *to the centralized data base, charge a licensed smog*
29 *check station a transaction fee established by the*
30 *department. The transaction fee shall be sufficient to*
31 *cover the actual costs of operating and maintaining the*
32 *current data base and network.*

33 *(c) Any contract made pursuant to this section may*
34 *authorize compensation to the contractor from the*
35 *transaction fees established by the department. The*
36 *contractor shall maintain the transaction fees, which may*
37 *be collected directly by the contractor from the licensed*
38 *smog check stations, in a separate custodial account that*
39 *the contractor shall account for and manage in*



1 *accordance with generally accepted accounting*
2 *standards and principles.*

3 *SEC. 8. Section 3016 of the Vehicle Code is amended*
4 *to read:*

5 3016. (a) New motor vehicle dealers and other
6 licensees under the jurisdiction of the board shall be
7 charged fees sufficient to fully fund the board's activities
8 other than those conducted pursuant to Section ~~9889.75~~
9 472.5 of the Business and Professions Code. The board
10 may recover the direct cost of the activities required by
11 Section ~~9889.75~~ 472.5 of the Business and Professions Code
12 by charging the ~~Bureau of Automotive Repair~~
13 *Department of Consumer Affairs* a fee which shall be paid
14 by the bureau with funds appropriated from the
15 Certification Account in the ~~Vehicle Inspection and~~
16 ~~Repair~~ *Consumer Affairs* Fund. All fees shall be
17 deposited, and held separate from other moneys, in the
18 Motor Vehicle Account in the State Transportation Fund,
19 and shall not be transferred to the State Highway Account
20 pursuant to Section 42273.

21 (b) The fees shall be available, when appropriated,
22 exclusively to fund the board's activities. If at the
23 conclusion of any fiscal year the amount of fees collected
24 exceeds the amount of expenditures for this purpose
25 during the fiscal year, the surplus shall be carried over
26 into the succeeding fiscal year.

27 *SEC. 9. This act is an urgency statute necessary for the*
28 *immediate preservation of the public peace, health, or*
29 *safety within the meaning of Article IV of the*
30 *Constitution and shall go into immediate effect. The facts*
31 *constituting the necessity are:*

32 The state is currently negotiating contracts with
33 private parties relating to the Vehicle Inspection and
34 Maintenance Program. Those seven-year contracts will
35 take effect before January 1, 1997. Therefore, to avoid a
36 costly delay in the statewide implementation of
37 improvements to the smog check program, it is necessary
38 that this act take effect immediately.

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