

AMENDED IN SENATE SEPTEMBER 12, 1997

AMENDED IN SENATE SEPTEMBER 11, 1997

AMENDED IN SENATE SEPTEMBER 2, 1997

AMENDED IN SENATE AUGUST 25, 1997

AMENDED IN SENATE JUNE 30, 1997

AMENDED IN SENATE JUNE 16, 1997

AMENDED IN ASSEMBLY MAY 1, 1997

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 57

Introduced by Assembly Member Escutia

December 2, 1996

An act to amend Sections 44015, 44017, and 44056 of, to add Sections 44001.3 and 44017.1 to, to repeal Section 44015.3 of, and to repeal and add Section 44062.1 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Escutia. Air pollution: vehicles: repair.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs; requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in

certain other circumstances; and requires all motor vehicles that are registered in designated areas of the state to biennially obtain a certificate of compliance or noncompliance with motor vehicle emission standards, except for certain exempted motor vehicles. Existing law provides that the cost limit for repairs under the smog check program shall be a minimum of \$450, except as specified. Existing law requires the issuance of an emission cost waiver for a motor vehicle that has been properly tested but does not meet the applicable emission standards, if no adjustment or repair will reduce emissions from the vehicle without exceeding the \$450 cost limit. The department is required to develop and implement either a repair subsidy program or a program that would provide for a 12-month economic hardship extension for motor vehicles from the biennial certificate of compliance requirement under specified circumstances, as prescribed.

A violation of any provision relating to those requirements is a misdemeanor.

This bill would change references from “emission cost waiver” to “repair cost waiver,” and would require that such a waiver be issued only upon request of the vehicle owner. The bill would prohibit the issuance of a repair cost waiver until all appropriate emissions-related partial repairs up to the amount of the repair cost limit have been performed. The bill would modify the \$450 repair cost limit to provide that a motor vehicle owner shall qualify for a repair cost waiver only after expenditure of \$450 for repairs, including parts and labor.

The bill would lower the \$450 repair cost limit to \$250, or not more than \$200, as determined by the department, for motor vehicle owners that qualify as low income. The bill would require a qualified low-income motor vehicle owner whose repair cost exceeds the applicable limit to be informed of all options for compliance with the program. The bill would provide for the issuance of an economic hardship extension to a low-income vehicle owner, as specified, and would delete the provisions for the provisions for those extensions as to other vehicle owners.

The bill would subject any person who obtains or attempts to obtain a repair cost waiver or hardship extension by



falsifying information to a civil penalty of not less than \$150 and not more than \$1,000, and would prohibit them from receiving any repair assistance pursuant to specified existing law. The bill would create a state-mandated local program by creating new crimes or changing the definition of existing crimes.

(2) Existing law requires the testing and repair portion of the smog check program to be conducted by licensed smog check stations, and authorizes a station to be licensed as a smog check test-only station.

This bill would require the department to provide for low-income repair assistance through entities authorized to perform referee functions, as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would become operative only if both AB 208 and AB 1492 are enacted and take effect on or before January 1, 1998. *The bill would state the intent of the Legislature that this bill be chaptered after AB 208 and AB 1492.*

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

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

1 SECTION 1. Section 44001.3 is added to the Health
2 and Safety Code, to read:
3 44001.3. The Legislature hereby finds and declares as
4 follows:
5 (a) Under the state’s previous smog check program, a
6 motor vehicle owner could obtain unlimited repair cost
7 waivers and, therefore, avoid repair of a polluting vehicle.
8 (b) As a result, many vehicles were reregistered year
9 after year and allowed to continue to pollute the air.
10 (c) Repairing high-polluting and gross polluting
11 vehicles (which pollute 2 to 25 times more than the
12 average vehicle that passes a smog check) could



1 significantly improve California air quality and allow the
2 state to meet federal clean air goals.

3 (d) The existing repair cost limit for smog repairs is a
4 minimum of four hundred fifty dollars (\$450) in all areas
5 where the enhanced smog check program operates; fifty
6 dollars (\$50) to three hundred dollars (\$300) based on the
7 model year of the vehicle where the enhanced program
8 is not fully implemented; and no cost limit for the repair
9 of gross polluting vehicles.

10 (e) Without state financial assistance to repair a
11 vehicle, a low-income vehicle owner is forced to either
12 scrap the vehicle or drive an unregistered vehicle.

13 SEC. 2. Section 44015 of the Health and Safety Code
14 is amended to read:

15 44015. (a) A licensed smog check station shall not
16 issue a certificate of compliance, except as authorized by
17 this chapter, to any vehicle that meets the following
18 criteria:

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

20 (2) A vehicle that, prior to repairs, has been initially
21 identified by the smog check station as a gross polluter.
22 Certification of a gross polluting vehicle shall be
23 conducted by a designated test-only facility, or a
24 test-and-repair station that is both licensed and certified
25 pursuant to Section 44014 and 44014.2 and is participating
26 in the pilot program pursuant to subparagraph (B) of
27 paragraph (2) of subdivision (g) of Section 44014.5.

28 (3) A vehicle described in subdivision (c).

29 (b) If a vehicle meets the requirements of Section
30 44012, a smog check station licensed to issue certificates
31 shall issue a certificate of compliance or a certificate of
32 noncompliance.

33 (c) (1) A repair cost waiver shall be issued, upon
34 request of the vehicle owner, by an entity authorized to
35 perform referee functions for a vehicle that has been
36 properly tested but does not meet the applicable emission
37 standards when it is determined that no adjustment or
38 repair can be made that will reduce emissions from the
39 inspected motor vehicle without exceeding the
40 applicable repair cost limit established under Section



1 44017 and that every defect specified by paragraph (2) of
2 subdivision (a) of Section 43204, and by paragraphs (2)
3 and (3) of subdivision (a) of Section 43205, has been
4 corrected. A repair cost waiver issued pursuant to this
5 paragraph shall be accepted in lieu of a certificate of
6 compliance for the purposes of compliance with Section
7 4000.3 of the Vehicle Code. No repair cost waiver shall
8 exceed two years' duration. No repair cost waiver shall be
9 issued until the vehicle owner has expended an amount
10 equal to the applicable repair cost limit specified in
11 Section 44017.

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

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

32 (1) If a motor vehicle was issued a repair cost waiver
33 or economic hardship extension in the previous biennial
34 inspection of that vehicle. A repair cost waiver or
35 economic hardship extension may be issued to a motor
36 vehicle owner only once for a particular motor vehicle
37 belonging to that owner. However, a repair cost waiver
38 or economic hardship extension may be issued for a motor
39 vehicle that participated in a previous waiver or
40 extension program prior to January 1, 1998, as determined

1 by the department. For waivers or extensions issued in
2 the program operative on or after January 1, 1998, a
3 waiver or extension may be issued for a motor vehicle
4 only once per owner.

5 (2) Upon initial registration of all of the following: a
6 direct import motor vehicle, a motor vehicle previously
7 registered outside this state, a dismantled motor vehicle
8 pursuant to Section 11519 of the Vehicle Code, a motor
9 vehicle that has had an engine change, an alternate fuel
10 vehicle, and a specially constructed vehicle.

11 (e) A certificate of compliance or noncompliance shall
12 be valid for 90 days.

13 (f) A test may be made at any time within 90 days prior
14 to the date otherwise required.

15 SEC. 3. Section 44015.3 of the Health and Safety Code
16 is repealed.

17 SEC. 4. Section 44017 of the Health and Safety Code
18 is amended to read:

19 44017. (a) Except as otherwise provided in this
20 section or Section 44017.1, a motor vehicle owner shall
21 qualify for a repair cost waiver only after expenditure of
22 not less than four hundred fifty dollars (\$450) for repairs,
23 including parts and labor.

24 (b) The limit established pursuant to subdivision (a)
25 shall not become operative until the department issues a
26 public notice declaring that the program established
27 pursuant to Section 44010.5 is operational in the relevant
28 geographical areas of the state, or until the date that
29 testing in those geographic areas is operative using loaded
30 mode test equipment, as defined in this article,
31 whichever occurs first. Prior to that time, the following
32 cost limits shall remain in effect:

33 (1) For motor vehicles of 1971 and earlier model years,
34 fifty dollars (\$50).

35 (2) For motor vehicles of 1972 to 1974, inclusive, model
36 years, ninety dollars (\$90).

37 (3) For motor vehicles of 1975 to 1979, inclusive, model
38 years, one hundred twenty-five dollars (\$125).

39 (4) For motor vehicles of 1980 to 1989, inclusive, model
40 years, one hundred seventy-five dollars (\$175).



1 (5) For motor vehicles of 1990 to 1995, inclusive, model
2 years, three hundred dollars (\$300).

3 (6) For motor vehicles of 1996 and later model years,
4 four hundred fifty dollars (\$450).

5 (c) The department shall periodically revise the
6 repair cost limits specified in subdivisions (a) and (b) in
7 accordance with changes in the Consumer Price Index,
8 as published by the United States Bureau of Labor
9 Statistics.

10 ~~(d) If insufficient funds are available to adequately~~
11 ~~fund the low-income repair assistance program during~~
12 ~~any year, the repair cost limits shall revert to those~~
13 ~~specified in subdivision (b) and the department shall~~
14 ~~issue a qualified low-income vehicle owner an economic~~
15 ~~hardship extension as specified in Section 44062.1.~~

16 ~~(e)~~

17 (d) No repair cost limit shall be imposed in those cases
18 where emissions control equipment is missing or is
19 partially or totally inoperative as a result of being
20 tampered with.

21 SEC. 5. Section 44017.1 is added to the Health and
22 Safety Code, to read:

23 44017.1. (a) For purposes of this section,
24 “low-income motor vehicle owner” means a person
25 whose income does not exceed 175 percent of the federal
26 poverty level.

27 (b) Notwithstanding subdivision (a) of Section 44017,
28 for low-income motor vehicle owners qualified under
29 Section 44062.1, the repair cost limit, including parts and
30 labor, shall be two hundred fifty dollars (\$250) in all areas
31 where the program operates. However, the department
32 may decrease that amount, to not more than two hundred
33 dollars (\$200), if the department determines that
34 participation rates are unsatisfactory.

35 (c) Until such time as a low-income repair assistance
36 program becomes effective pursuant to Section 44062.1,
37 an economic hardship extension shall be issued upon
38 request to a qualified low-income motor vehicle owner
39 whose motor vehicle has been tested but does not meet



1 applicable emissions standards and the necessary repairs
2 exceed the repair cost limit specified in subdivision (b).

3 SEC. 6. Section 44056 of the Health and Safety Code
4 is amended to read:

5 44056. (a) Except as otherwise provided in Sections
6 44051 and 44051.5, any person who violates this chapter,
7 or any order, rule, or regulation of the department
8 adopted pursuant to this chapter, is liable for a civil
9 penalty of not less than one hundred fifty dollars (\$150)
10 and not more than two thousand five hundred dollars
11 (\$2,500) for each day in which each violation occurs. Any
12 action to recover civil penalties shall be brought by the
13 Attorney General in the name of the state on behalf of the
14 department, or may be brought by any district attorney,
15 city attorney, or attorney for a district.

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

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

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

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

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

38 (c) Any person who obtains or attempts to obtain a
39 repair cost waiver, or economic hardship extension
40 pursuant to this chapter by falsifying information shall be



1 subject to a civil penalty of not less than one hundred fifty
2 dollars (\$150) and not more than one thousand dollars
3 (\$1,000), and shall be made ineligible for receiving any
4 repair assistance of any kind pursuant to this chapter.

5 SEC. 7. Section 44062.1 of the Health and Safety Code,
6 as amended by Section 13 of Chapter 982 of the Statutes
7 of 1995, is repealed.

8 SEC. 8. Section 44062.1 of the Health and Safety Code,
9 as amended by Section 14 of Chapter 982 of the Statutes
10 of 1995, is repealed.

11 SEC. 9. Section 44062.1 of the Health and Safety Code,
12 as amended by Section 15 of Chapter 982 of the Statutes
13 of 1995, is repealed.

14 SEC. 10. Section 44062.1 is added to the Health and
15 Safety Code, to read:

16 44062.1. (a) The department shall offer a low-income
17 repair assistance program beginning March 1, 1998,
18 through entities authorized to perform referee functions.

19 (b) (1) The repair assistance program shall be
20 available to eligible individuals based on a maximum
21 income level of 175 percent of the federal poverty level,
22 as published quarterly in the Federal Register by the
23 Department of Health and Human Services.

24 (2) The department shall offer low-income repair cost
25 assistance, funded by the High Polluter Repair or
26 Removal Account in the Vehicle Inspection and Repair
27 Fund created pursuant to subdivision (a) of Section 44091
28 and revenues generated by the smog impact fee pursuant
29 to Section 6262 of the Revenue and Taxation Code, to
30 individuals who obtain an economic hardship extension,
31 based on the cost-effectiveness and air quality benefit of
32 the needed repair. Repair assistance may include
33 retesting costs.

34 (3) An applicant for low-income repair assistance shall
35 file an application on a form prescribed by the
36 department and shall certify under penalty of perjury
37 that the applicant meets the applicable eligibility
38 standards.

39 (4) Verification of low-income eligibility shall be made
40 ~~by a facility licensed and certified pursuant to Sections~~



1 ~~44014 and 44014.2 and shall be~~ based on at least one form
2 of documentation, as determined by the department,
3 including, but not limited to, (A) an income tax return,
4 (B) an employment warrant, or (C) a form of public
5 assistance verification.

6 (c) The low-income repair assistance program shall be
7 funded by the High Polluter Repair or Removal Account
8 until June 30, 1998. Thereafter, a minimum of twenty
9 million dollars (\$20,000,000) shall be made available
10 annually for the program through funding provided by
11 revenues generated by the smog impact fee pursuant to
12 Section 6262 of the Revenue and Taxation Code.

13 (d) All repairs subsidized by the state through the
14 program shall be performed at a repair station licensed
15 and certified pursuant to Sections 44014 and 44014.2 at the
16 time of testing and application for an economic hardship
17 extension. Repair shall be based upon a preapproved list
18 of repairs for cost-effective emission reductions.

19 (e) The qualified low-income motor vehicle owner
20 receiving repair assistance pursuant to this section shall
21 contribute a copayment equivalent to the repair cost
22 limit, as determined by the department as specified in
23 Section 44017.1, either in cash, or in emissions-related
24 partial repairs as verified by a test-only station pursuant
25 to paragraph (2) of subdivision (c) of Section 44015, or a
26 combination thereof. If the repair cost exceeds the
27 applicable repair cost limit, the department shall inform
28 a qualified low-income motor vehicle owner of all options
29 for compliance at the time of testing and repair.

30 (f) The department shall collect data from the
31 program to provide information on how to improve the
32 program. Data collection shall include all of the following:

33 (1) The number of low-income motor vehicle owners
34 that are eligible for repair assistance.

35 (2) The number of eligible motor vehicle owners that
36 use repair assistance funds.

37 (3) The potential for fraud.

38 (4) The average repair bills.

39 (5) The types of repairs being done.



1 (6) The amount of partial repairs done prior to receipt
2 of repair assistance.

3 (7) The emissions benefits of providing repair
4 assistance.

5 (g) The department shall collect data and develop
6 information and shall report to the Legislature on or
7 before April 1, 1999, on eligibility criteria, program
8 participation, the cost of vehicle repairs, and the funding
9 resources needed to implement the program.

10 (h) For purposes of this section, “low-income motor
11 vehicle owner” means a person whose income does not
12 exceed 175 percent of the federal poverty level.

13 SEC. 11. No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution because the only costs that may be incurred
16 by a local agency or school district will be incurred
17 because this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition
21 of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.

27 SEC. 12. (a) This act shall become operative only if
28 both Assembly Bill 208 and Assembly Bill 1492 of the
29 1997–98 Regular Session of the Legislature are enacted
30 and take effect on or before January 1, 1998.

31 (b) *It is the intent of the Legislature that this bill be*
32 *chaptered after both Assembly Bill 208 and Assembly Bill*
33 *1492 of the 1997–98 Regular Session of the Legislature.*

