

AMENDED IN SENATE AUGUST 25, 1997

AMENDED IN SENATE JUNE 23, 1997

AMENDED IN ASSEMBLY MAY 1, 1997

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 208

Introduced by Assembly Member Migden

February 4, 1997

An act to amend Sections ~~44060 and 44091 of, and to add Section 44060.5 to, the Health and Safety Code, and to amend Section 6262 of the Revenue and Taxation Code, 40003, 44037.1, 44060, and 44081 of, and to add Section 44024.5 to, the Health and Safety Code, to amend Section 6262 of the Revenue and Taxation Code, and to repeal Section 4000.7 of the Vehicle Code, relating to air pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 208, as amended, Migden. Vehicles: *inspection and maintenance*: high polluter repair or removal.

(1) Existing law establishes a High Polluter Repair or Removal Program administered by the Department of Consumer Affairs and the State Air Resources Board for the repair or removal of high-polluting motor vehicles. Existing law establishes the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund, and requires money deposited in the account, including donations, grants,

and payments that exempt a vehicle from the requirement for a smog check upon the 2nd renewal of the registration, to be available for purposes of the program. Existing law requires the department and the state board to seek federal funds and explore other funding sources for deposit in the account.

~~This Existing law imposes a \$300 smog impact fee on certain vehicles previously registered outside the state and requires those revenues to be deposited in the General Fund.~~

~~This bill would require those smog impact fee revenues to be deposited instead in the High Polluter Repair or Removal Account. The bill would declare the intent of the Legislature to identify new funding sources for the program. The bill would make related changes.~~

(2) Existing law limits the fee charged for a smog check certificate of compliance or noncompliance, waiver, or extension to \$7, except for adjustments to reflect the Consumer Price Index, which have increased the fee to \$8 pursuant to regulations adopted by the Bureau of Automotive Repair.

~~This bill would additionally impose a \$1 surcharge for a smog check certificate, waiver, or extension, to be deposited in the High Polluter Repair or Removal Account increase the maximum amount of that fee to \$10 until January 1, 2002, and subject certain vehicles to a specified smog abatement fee, thereby imposing a tax for purposes of Article XIII A of the California Constitution. The bill would delete obsolete provisions and make conforming changes require the department and the state board to report to the Legislature by January 1, 2003, on the smog check program, as specified.~~

~~(3) Existing law imposes a \$300 smog impact fee on certain vehicles previously registered outside the state and requires those revenues to be deposited in the General Fund.~~

~~This bill would require those smog impact fee revenues to be deposited instead in the High Polluter Repair or Removal Account. The bill would become operative only if both AB 57 and SB 1492 are enacted and take effect on or before January 1, 1998.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



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

1 SECTION 1. It is the intent of the Legislature to
2 identify new funding sources for the High Polluter Repair
3 or Removal Account created by Section 44091 of the
4 Health and Safety Code to provide financial assistance to
5 motorists in the state who own high-polluting vehicles.

6 ~~SEC. 2.—Section 44060 of the Health and Safety Code~~

7 *SEC. 2. Section 44003 of the Health and Safety Code*
8 *is amended to read:*

9 44003. (a) (1) An enhanced motor vehicle
10 inspection and maintenance program is established in
11 each urbanized area of the state, any part of which is
12 classified by the Environmental Protection Agency as a
13 serious, severe, or extreme nonattainment area for ozone
14 or a moderate or serious nonattainment area for carbon
15 monoxide with a design value greater than 12.7 ppm, and
16 in other areas of the state as provided in this chapter.

17 (2) *The enhanced motor vehicle inspection and*
18 *maintenance program established pursuant to paragraph*
19 *(1) shall be assessed jointly by the department and the*
20 *state board periodically to determine whether changes in*
21 *the program may be warranted. On or before January 1,*
22 *2003, the department and the state board shall jointly*
23 *issue a report to the Legislature based on those periodic*
24 *assessments, recommending any modifications to the*
25 *enhanced program to improve its operations and lessen*
26 *its impact on consumers while still achieving the*
27 *necessary emission reductions to attain air quality*
28 *standards.*

29 (3) A basic vehicle inspection and maintenance
30 program shall be continued in all other areas of the state
31 where a program was in existence under this chapter as
32 of the effective date of this paragraph.

33 (b) The department may prescribe different test
34 procedures and equipment requirements for those areas
35 described in subdivision (a). Program components shall
36 be operated in all program areas unless otherwise
37 indicated, as determined by the department. In those
38 areas where the biennial program is not implemented



1 and smog check inspections are required to complete the
2 requirements set forth in Sections 4000.1 and 4000.2 of the
3 Vehicle Code, program elements that apply in basic
4 areas, including test equipment requirements for smog
5 check stations, shall apply.

6 (c) (1) Districts classified as attainment areas may
7 request the department to implement all or part of the
8 program elements defined in this chapter. However, the
9 department shall not implement the program established
10 by Section 44010.5 in any area other than an urbanized
11 area, any part of which is classified by the Environmental
12 Protection Agency as a serious, severe, or extreme
13 nonattainment area for ozone or a moderate or serious
14 nonattainment area for carbon monoxide with a design
15 value greater than 12.7 ppm.

16 (2) Districts that include areas classified as basic
17 program nonattainment areas pursuant to subdivision (a)
18 may, except as provided in paragraph (1), request the
19 implementation in those areas of test procedures and
20 equipment required for enhanced program areas and any
21 other program requirement specified for enhanced
22 program areas.

23 *SEC. 3. Section 44024.5 is added to the Health and*
24 *Safety Code, to read:*

25 *44024.5. (a) The department shall compile and*
26 *maintain statistical and emissions profiles of motor*
27 *vehicles that are subject to the motor vehicle inspection*
28 *program. The department may use data from any source,*
29 *including remote sensing data and other motor vehicle*
30 *inspection program data, to develop and confirm the*
31 *validity of the profiles.*

32 *(b) The department, in cooperation with the state*
33 *board, shall perform periodic analyses of the statistical*
34 *and emissions profiles created pursuant to subdivision*
35 *(a). The department and state board may jointly*
36 *determine that, in addition to the vehicles excepted*
37 *pursuant to Section 44011, certain other motor vehicles*
38 *may be excepted from the biennial certification*
39 *requirements of this chapter without significantly*



1 *compromising the emission reduction objectives set forth*
2 *in the State Implementation Plan (SIP).*

3 *(c) The department may conduct a pilot program to*
4 *except from the biennial certification requirement those*
5 *vehicles that may be jointly determined by the*
6 *department and the state board to warrant exception.*
7 *The department shall submit the results of the pilot*
8 *program to the state board for review. Subject to the*
9 *approval of the Environmental Protection Agency as an*
10 *amendment to the SIP, the department may establish the*
11 *exception program as a permanent program.*

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

25 *SEC. 4. Section 44037.1 of the Health and Safety Code*
26 *is amended to read:*

27 *44037.1. (a) On or before January 1, 1995, the*
28 *department shall design and establish the equipment*
29 *necessary to operate a centralized computer data base*
30 *and computer network ~~which~~—that is readily accessible by*
31 *all licensed smog check technicians on a real time basis.*

32 *(b) The centralized computer data base and network*
33 *shall be designed with all of the following capabilities:*

34 *(1) To provide smog check technicians with*
35 *immediate access to vehicle-specific information*
36 *regarding the location of all emission control equipment,*
37 *pattern failure data, and other vehicle-specific technical*
38 *information relevant to the efficient identification,*
39 *diagnosis, and repair of emission problems.*



- 1 (2) To provide smog check technicians and the
 2 department with information as to the date and result of
 3 prior smog check tests performed on each vehicle ~~in~~
 4 ~~order~~ to discourage vehicle owners from shopping for
 5 certificates of compliance and to permit the department
 6 to identify smog check stations for further investigation
 7 as potential violators of this chapter.
- 8 (3) To provide the department with data on the failure
 9 rates and repair effectiveness for vehicles of each make
 10 and model-year on a statewide basis, and by smog check
 11 station and technician, to facilitate identification of smog
 12 check stations and technicians as potential violators of this
 13 chapter.
- 14 (4) Upon a determination that a smog check station or
 15 technician has engaged in a pattern of *conduct* violating
 16 this chapter, or that a vehicle failed one or more emissions
 17 tests before obtaining a certificate of compliance, to
 18 provide the information necessary to identify and contact
 19 vehicle owners who obtained certificates from the station
 20 or technician, or may have obtained certificates of
 21 compliance in violation of this chapter, for purposes of
 22 requiring the retesting of their vehicles.
- 23 (5) To be compatible with the eventual transition to a
 24 fully computerized smog certification program that will
 25 not require the use of printed certificates as evidence of
 26 compliance.
- 27 (6) To be compatible with bar code scanning of
 28 vehicles as provided in Section 44041.
- 29 (7) To permit ongoing entry of information from each
 30 smog check station into the centralized data base to
 31 enlarge and improve the data base on a continuous basis.
- 32 (8) To be compatible with the department's
 33 recordkeeping and compilation requirements
 34 established by Section 44037.
- 35 (9) To meet the needs of a remote-sensing program to
 36 identify gross polluters, as specified by the department.
- 37 (10) To meet any other needs specified by the
 38 department to enhance the benefits of the program
 39 through the storage of vehicle-specific information, such
 40 as that pertaining to ~~serap~~ *voluntary repair and assistance*



1 *and retirement* programs and to the referee station
2 program.

3 (c) After January 1, 1995, each smog check station shall
4 transmit vehicle data emission test results to the
5 department's centralized data base. Each smog check
6 station shall also transmit vehicle data and emission
7 measurements made before and after repair. The
8 department shall establish, by regulation, the form,
9 manner, and frequency of the data transmittals.

10 *SEC. 5. Section 44060 of the Health and Safety Code*
11 *is amended to read:*

12 44060. (a) The department shall prescribe the form
13 of the certificate of compliance or noncompliance, ~~the~~
14 ~~emission cost waiver, and the economic hardship~~
15 ~~extension and repair cost waiver.~~

16 (b) ~~Effective not later than January 1, 1996, the~~ *The*
17 ~~certificates, emission cost waivers, and economic~~
18 ~~hardship extensions and repair cost waivers~~ shall be in the
19 form of an electronic entry filed with the department, the
20 Department of Motor Vehicles, and any other person
21 designated by the department. ~~In meeting the January 1,~~
22 ~~1996, deadline, the department shall ensure that~~
23 ~~adequate lead time is provided for conversion to an~~
24 ~~electronic entry type of certificate, emission cost waiver,~~
25 ~~and economic hardship extension.~~ The department shall
26 ensure that the *motor* vehicle owner or operator is
27 provided with a written report, signed by the licensed
28 technician who performed the inspection, of any test
29 performed by a smog check station, including a pass or fail
30 indication, and written confirmation of the issuance of the
31 certificate.

32 (c) (1) The department shall charge a fee to a smog
33 check station, including a test-only station, and a station
34 providing referee functions, for a *motor* vehicle
35 inspected at that station ~~which~~ *that* meets the
36 requirements of this chapter and is issued a certificate of
37 compliance, a certificate of noncompliance, ~~an economic~~
38 ~~hardship extension, or an emission repair cost waiver.~~

39 (2) The fee charged pursuant to paragraph (1) shall be
40 calculated to recover the costs of the department and any



1 other state agency directly involved in the
2 implementation, administration, or enforcement of the
3 motor vehicle inspection and maintenance program, and
4 shall not exceed the amount reasonably necessary to fund
5 the operation of the program, including all
6 responsibilities, requirements, and obligations imposed
7 upon the department or any of those state agencies by this
8 chapter, ~~which~~ *that* are not otherwise recoverable by fees
9 received pursuant to Section 44034.

10 (3) Except for adjustments to reflect changes in the
11 Consumer Price Index, as published by the United States
12 Bureau of Labor Statistics, the fee for each certificate,
13 waiver, or extension, *until January 1, 2002*, shall not
14 exceed ten dollars (\$10) *and, thereafter* shall not exceed
15 seven dollars (\$7).

16 (4) Fees collected by the department pursuant to this
17 subdivision shall be deposited in the Vehicle Inspection
18 and Repair Fund. It is the intent of the Legislature that
19 a prudent surplus be maintained in the Vehicle
20 Inspection and Repair Fund. If the surplus exceeds the
21 reasonable costs of administration of the programs
22 specified in this chapter and in Chapter 20.3
23 (commencing with Section 9880) of Division 3 of the
24 Business and Professions Code, the department shall, by
25 regulation, prescribe a lower fee for the certificates;
26 ~~waivers, and extensions~~ *and waivers*.

27 (d) (1) *Motor vehicles exempted under paragraph*
28 *(4) of subdivision (a) of Section 44011 shall be subject to*
29 *an annual smog abatement fee, not to exceed one-half the*
30 *amount of the fee imposed pursuant to subparagraph (A)*
31 *of paragraph (3) of subdivision (c). Payment of this fee*
32 *shall be made to the Department of Motor Vehicles at the*
33 *time of registration of the motor vehicle.*

34 (2) *Fees collected pursuant to this subdivision shall be*
35 *deposited on a daily basis into the Vehicle Inspection and*
36 *Repair Fund.*

37 (e) The sale or transfer of the certificate, ~~waiver, or~~
38 ~~extension,~~ *or waiver* by a licensed smog check station or
39 test-only station to any other licensed smog check station
40 or to any other person, and the purchase or acquisition of



1 the certificate, waiver, or extension, by any person, other
2 than from the department, the department's designee, or
3 pursuant to a vehicle's inspection or repair conducted
4 pursuant to this chapter, is prohibited.

5 ~~(e)~~

6 (f) Following implementation of the electronic entry
7 certificate under subdivision (b), the department may
8 require the modification of the analyzers and other
9 equipment required at smog check stations to prevent
10 the entry of a certificate ~~which~~ *that* has not been issued
11 or validated through prepayment of the fee authorized
12 by subdivision (c).

13 ~~(f)~~

14 (g) The fee charged by licensed smog check stations
15 to consumers for a certificate, ~~waiver, or extension,~~ *or*
16 *waiver* shall be the same amount that is charged by the
17 department.

18 *SEC. 6. Section 44081 of the Health and Safety Code*
19 *is amended to read:*

20 44081. (a) (1) The department, in cooperation with
21 the state board, shall institute procedures for auditing the
22 emissions of vehicles while actually being driven on the
23 streets and highways of the state. The department may
24 undertake those procedures itself or seek a qualified
25 vendor of these services. The primary object of the
26 procedures shall be the detection of gross polluters. The
27 procedures shall consist of techniques and technologies
28 determined to be effective for that purpose by the
29 department, including, but not limited to, remote
30 sensing. The procedures may include pullovers for
31 roadside emissions testing and inspection. The
32 department shall consider the recommendations of the
33 review committee based on the outcome of the pilot
34 demonstration program conducted pursuant to Section
35 44081.6.

36 (2) The department may additionally use other
37 methods to identify gross polluting vehicles for
38 out-of-cycle testing and repair.

39 (b) The department shall, by regulation, establish a
40 program for the out-of-cycle testing and repair of *motor*



1 vehicles found, through roadside auditing, to be emitting
2 at levels that exceed specified standards. The program
3 shall include all of the following elements:

4 (1) Emission standards, and test and inspection
5 procedures and regulations, adopted in coordination with
6 the state board, applicable to vehicles tested during
7 roadside auditing. Emission standards for issuance of a
8 notice of noncompliance to a gross polluter shall be
9 designed to maximize the identification of vehicles with
10 substantial excess emissions.

11 (2) Procedures for issuing notices of noncompliance to
12 owners of gross polluters, either at the time of the
13 roadside audit, or subsequently by certified mail, or by
14 obtaining a certificate of mailing as evidence of service,
15 using technologies for recording license plate numbers.
16 The notice of noncompliance shall provide that, unless
17 the vehicle is brought to a designated test-only facility, or
18 a test-and-repair station that is both licensed and certified
19 pursuant to Section 44014 and 44014.2 and is participating
20 in the pilot program pursuant to subparagraph (B) of
21 paragraph—(3) (2) of subdivision (g) of Section 44014.5,
22 for emissions testing within 30 days, the owner will be
23 required to pay an administrative fee of five hundred
24 dollars (\$500) to be collected by the Department of
25 Motor Vehicles at the next annual registration renewal or
26 the next change of ownership of the vehicle, whichever
27 occurs first. Commencing on the 31st day after issuance
28 of the notice of noncompliance, the fee shall accrue at the
29 rate of five dollars (\$5) per day up to the five hundred
30 dollars (\$500) maximum.

31 (3) Procedures for the testing of vehicles identified as
32 gross polluters by a designated test-only facility, or a
33 test-and-repair station that is both licensed and certified
34 pursuant to Section 44014 and 44014.2 and is participating
35 in the pilot program pursuant to subparagraph (B) of
36 paragraph—(3) (2) of subdivision (g) of Section 44014.5, to
37 confirm that the vehicle exceeds the minimum emission
38 standard for gross polluters set by the department.

39 (4) Procedures requiring owners of vehicles
40 confirmed as gross polluters to have the vehicle repaired,



1 resubmitted for testing, and obtain a certificate of
2 compliance from a designated test-only facility or
3 removed from service as attested by a certificate of
4 nonoperation from the Department of Motor Vehicles
5 within 30 days or be required to pay an administrative fee
6 of not more than five hundred dollars (\$500), to be
7 collected by the Department of Motor Vehicles at the
8 next annual registration renewal or the next change of
9 ownership, whichever occurs first. Commencing on the
10 31st day after issuance of the notice of noncompliance, the
11 fee shall accrue at the rate of five dollars (\$5) per day up
12 to the five hundred dollars (\$500) maximum. The
13 registration of a vehicle shall not be issued or renewed if
14 that vehicle has been identified as a gross polluter and has
15 not been issued a certificate of compliance. Except as
16 provided in subdivision (b) of Section 9250.18 of the
17 Vehicle Code, any revenues collected by the Department
18 of Motor Vehicles pursuant to this subdivision and Section
19 9250.18 of the Vehicle Code shall be deposited in the
20 Vehicle Inspection and Repair Fund. If the ownership of
21 the vehicle is transferred, the administrative fee provided
22 for in this subdivision shall be waived if the vehicle is
23 brought into compliance.

24 (5) A procedure for notifying the Department of
25 Motor Vehicles of notices of noncompliance issued, so
26 that the Department of Motor Vehicles may provide
27 effective collection of the administrative fee. The
28 Department of Motor Vehicles shall cooperate with, and
29 implement the requirements of, the department in that
30 regard.

31 ~~(6)~~

32 (c) The department may adopt any other regulations
33 necessary for the effective implementation of this section,
34 as determined by the department.

35 ~~(e)~~

36 (d) Upon the request of the department, the
37 Department of the California Highway Patrol shall
38 provide assistance in conducting roadside auditing, to
39 consist of (1) the stopping of vehicles and traffic
40 management, and (2) the issuance of notices of



1 noncompliance to gross polluters. The department shall
2 reimburse the Department of the California Highway
3 Patrol for its costs of providing those services. The
4 Department of Transportation and affected local
5 agencies shall provide necessary assistance and
6 cooperation to the department in the operation of the
7 program.

8 ~~(d)~~

9 (e) There shall be no repair cost limit imposed
10 pursuant to Section 44017 for any repairs that are
11 required to be made under the roadside auditing
12 program, except as provided in subdivision ~~(d)~~—(c) of
13 Section 44017.

14 (f) *This section does not apply to vehicles operating*
15 *under a valid repair cost waiver issued pursuant to*
16 *Section 44015.*

17 *SEC. 7. Section 6262 of the Revenue and Taxation*
18 *Code is amended to read:*

19 6262. (a) In addition to any other fees and taxes
20 required to be paid by the Vehicle Code and this code at
21 the time of the registration of a motor vehicle, as defined
22 in Section 415 of the Vehicle Code, a person making
23 application to register a 1975 or subsequent model year
24 gasoline-powered motor vehicle or a 1980 or subsequent
25 model year diesel-powered motor vehicle which is
26 subject to the requirements of Section 4000.2 of the
27 Vehicle Code shall pay to the Department of Motor
28 Vehicles a motor vehicle smog impact fee of three
29 hundred dollars (\$300) for any such motor vehicle which,
30 prior to the date of application, was last registered outside
31 this state, unless the motor vehicle has been certified
32 pursuant to Chapter 2 (commencing with Section 43100)
33 of Part 5 of Division 26 of the Health and Safety Code. This
34 subdivision does not authorize the registration of motor
35 vehicles ~~which~~—*that* are prohibited from being brought
36 into this state pursuant to Article 1.5 (commencing with
37 Section 43150) of Chapter 2 of Part 5 of Division 26 of the
38 Health and Safety Code.



1 (b) The determination that a vehicle is subject to the
2 fee imposed pursuant to this section shall be made by the
3 Department of Motor Vehicles, or its designee.

4 ~~(1)~~

5 (c) (1) For purposes of this chapter, if a motor vehicle
6 does not have affixed a vehicle emission control label
7 from which the Department of Motor Vehicles may
8 determine whether the vehicle is California-certified, the
9 vehicle shall be presumed not to be California-certified
10 unless confirmed to be by the manufacturer.

11 (2) Any manufacturer of light-duty motor vehicles
12 doing business in California shall provide information,
13 within 30 days *from the date* of the receipt of a request
14 from the Department of Motor Vehicles, stating whether
15 a vehicle, identified in the request by the vehicle
16 identification number (VIN) assigned by the
17 manufacturer in accordance with federal law, has been
18 certified for sale in California pursuant to Chapter 2
19 (commencing with Section 43100) of Part 5 of Division 26
20 of the Health and Safety Code.

21 (3) For purposes of this ~~section~~ *subdivision*, “vehicle
22 emission control label” means the permanent label *that*
23 vehicle manufacturers are required to affix to motor
24 vehicles certified by the State Air Resources Board for
25 sale in California in accordance with Chapter 2
26 (commencing with Section 43100) of Part 5 of Division 26
27 of the Health and Safety Code and pursuant to Sections
28 1965 and 1965.5 of Title 13 of the California Code of
29 Regulations.

30 ~~(e)~~

31 (d) After deduction of all costs incurred by the
32 department in carrying out this section ~~which~~ *that* have
33 been approved by the Department of Finance, the
34 revenues received pursuant to this section shall be
35 deposited in the ~~General Fund~~ *High Polluter Repair or*
36 *Removal Account in the Vehicle Inspection and Repair*
37 *Fund created pursuant to subdivision (a) of Section 44091*
38 *of the Health and Safety Code.*

39 ~~(d)~~



1 (e) This section does not apply to ~~a~~—any of the
2 following:

3 (1) A commercial vehicle, as defined in Section 260 of
4 the Vehicle Code, with an unladen weight in excess of
5 6,000 pounds.

6 ~~(e) This section does not apply to any~~

7 (2) Any vehicle owned by a person who, pursuant to
8 military orders or within three years following the date of
9 discharge from or release from active duty in the armed
10 forces of the United States, enters California for the
11 purpose of establishing or reestablishing residence or
12 accepting gainful employment, if the vehicle was
13 acquired by the owner in a foreign jurisdiction where
14 those military orders required the owner's presence.

15 ~~(f) This section does not apply to any~~

16 (3) Any vehicle that is required to be registered on or
17 after January 1, 1993, that has been subject to the fee
18 imposed by this section within the prior four years, if the
19 emission control devices and systems were not modified
20 out of state subsequent to the previous payment of that
21 fee.

22 ~~(g)~~

23 (f) Notwithstanding any other provision of law, the fee
24 imposed pursuant to subdivision (a) is imposed pursuant
25 to the Sales and Use Tax Law.

26 SEC. 8. Section 4000.7 of the Vehicle Code is repealed.

27 ~~4000.7. (a) For purposes of subdivision (a) of Section~~
28 ~~4000.3, for any vehicle which is registered for the first~~
29 ~~time in this state on or after January 1, 1994, the first~~
30 ~~certificate of compliance shall be required upon the~~
31 ~~second renewal of its registration.~~

32 ~~(b) (1) Commencing not later than October 1, 1996,~~
33 ~~at the time of application and payment for the second~~
34 ~~renewal of the registration of a motor vehicle that was~~
35 ~~first sold as new in California on or after January 1, 1994,~~
36 ~~and which is subject to Part 5 (commencing with Section~~
37 ~~43000) of Division 26 of the Health and Safety Code, the~~
38 ~~department shall solicit an additional payment which, at~~
39 ~~the option of the applicant, may be made to the~~
40 ~~department. The Department of Consumer Affairs shall~~



1 ~~determine the amount of the additional payment, but the~~
2 ~~amount shall not exceed fifty dollars (\$50). In soliciting~~
3 ~~the additional payment in the application for the second~~
4 ~~renewal, the department shall include a brief summary of~~
5 ~~the air quality benefits being achieved by the inspection~~
6 ~~and maintenance and high-polluter repair or removal~~
7 ~~programs. The Legislature hereby finds and declares that~~
8 ~~the payment is in the nature of a donation for purposes of~~
9 ~~the high-polluter repair or removal program established~~
10 ~~pursuant to Article 9 (commencing with Section 44090);~~
11 ~~and the accelerated light duty vehicle retirement~~
12 ~~program established pursuant to Article 10 (commencing~~
13 ~~with Section 44100) of Chapter 5 of Part 5 of Division 26~~
14 ~~of the Health and Safety Code.~~

15 ~~(2) (A) On a monthly basis, the department shall~~
16 ~~transmit all payments received pursuant to paragraph~~
17 ~~(1), including any accrued interest, to the Treasurer for~~
18 ~~deposit in the High Polluter Repair or Removal Account~~
19 ~~created pursuant to subdivision (a) of Section 44091 of the~~
20 ~~Health and Safety Code, for expenditure, upon~~
21 ~~appropriation by the Legislature, by the Department of~~
22 ~~Consumer Affairs pursuant to Article 9 (commencing~~
23 ~~with Section 44090) and Article 10 (commencing with~~
24 ~~Section 44100) of Chapter 5 of Part 5 of Division 26 of the~~
25 ~~Health and Safety Code.~~

26 ~~(B) The department and the Department of~~
27 ~~Consumer Affairs, by interagency agreement, shall~~
28 ~~establish a procedure for the Department of Consumer~~
29 ~~Affairs to reimburse the department for its reasonable~~
30 ~~costs incurred in collecting the payments received~~
31 ~~pursuant to paragraph (1).~~

32 ~~(3) (A) Upon receipt of a payment pursuant to~~
33 ~~paragraph (1), the department shall mark the record of~~
34 ~~the subject vehicle with an exemption from the~~
35 ~~requirements of subdivision (a) of Section 4000.3. The~~
36 ~~exemption shall be valid for the first biennial inspection~~
37 ~~period, and shall have the same force and effect as a~~
38 ~~certificate of compliance issued in accordance with~~
39 ~~Section 44015 of the Health and Safety Code. The~~



1 exemption shall be void if the title to, or any interest in,
 2 the vehicle is transferred pursuant to Section 5600.

3 (B) The department shall collect a fee at the time of
 4 the payment pursuant to paragraph (1) for marking the
 5 record with an exemption which is equal to the fee that
 6 is charged for the issuance of a certificate of compliance.
 7 All fee revenue received pursuant to this subparagraph
 8 shall be deposited in the Vehicle Inspection and Repair
 9 Fund and be available for purposes of administering and
 10 enforcing the vehicle inspection and maintenance
 11 program.

12 (4) Notwithstanding paragraph (1) of subdivision (b),
 13 the provisions of Section 4000.6 in existence on December
 14 31, 1995, authorizing an optional additional payment at
 15 the time of application for the initial registration for a new
 16 motor vehicle shall continue in effect until October 1,
 17 1996.

18 *SEC. 9. (a) It is the intent of the Legislature to*
 19 *replace the existing vehicle inspection and maintenance*
 20 *program prescribed in Chapter 5 (commencing with*
 21 *Section 44000) of Part 5 of Division 26 of the Health and*
 22 *Safety Code on or before January 1, 2005.*

23 *(b) On or before January 1, 2003, the State Air*
 24 *Resources Board shall design a new proposed program to*
 25 *replace the existing vehicle inspection and maintenance*
 26 *program and submit to the Legislature a report on that*
 27 *new program.*

28 *SEC. 10. This act shall become operative only if both*
 29 *Assembly Bill 57 and Senate Bill 1492 of the 1997-98*
 30 *Regular Session of the Legislature are enacted and take*
 31 *effect on or before January 1, 1998.*

32 ~~is amended to read:~~

33 ~~44060. (a) The department shall prescribe the form~~
 34 ~~of the certificate of compliance or noncompliance, the~~
 35 ~~emission cost waiver, and the economic hardship~~
 36 ~~extension.~~

37 ~~(b) The certificates, emission cost waivers, and~~
 38 ~~economic hardship extensions shall be in the form of an~~
 39 ~~electronic entry filed with the department, the~~
 40 ~~Department of Motor Vehicles, and any other person~~



1 ~~designated by the department. The department shall~~
2 ~~ensure that the motor vehicle owner or operator is~~
3 ~~provided with a written report, signed by the licensed~~
4 ~~technician who performed the inspection, of any test~~
5 ~~performed by a smog check station, including a pass or fail~~
6 ~~indication, and written confirmation of the issuance of the~~
7 ~~certificate.~~

8 ~~(c) (1) The department shall charge a fee to a smog~~
9 ~~check station, including a test only station, and a station~~
10 ~~providing referee functions, for a motor vehicle~~
11 ~~inspected at that station that meets the requirements of~~
12 ~~this chapter and is issued a certificate of compliance, a~~
13 ~~certificate of noncompliance, an economic hardship~~
14 ~~extension, or an emission cost waiver.~~

15 ~~(2) The fee charged pursuant to paragraph (1) shall be~~
16 ~~calculated to recover the costs of the department and any~~
17 ~~other state agency directly involved in the~~
18 ~~implementation, administration, or enforcement of the~~
19 ~~motor vehicle inspection and maintenance program, and~~
20 ~~shall not exceed the amount reasonably necessary to fund~~
21 ~~the operation of the program, including all~~
22 ~~responsibilities, requirements, and obligations imposed~~
23 ~~upon the department or any of those state agencies by this~~
24 ~~chapter, which are not otherwise recoverable by fees~~
25 ~~received pursuant to Section 44034.~~

26 ~~(3) Except for adjustments to reflect changes in the~~
27 ~~Consumer Price Index, as published by the United States~~
28 ~~Bureau of Labor Statistics, and except for the surcharge~~
29 ~~imposed pursuant to Section 44060.5, the fee for each~~
30 ~~certificate, waiver, or extension shall not exceed seven~~
31 ~~dollars (\$7).~~

32 ~~(4) Fees collected by the department pursuant to this~~
33 ~~subdivision shall be deposited in the Vehicle Inspection~~
34 ~~and Repair Fund. It is the intent of the Legislature that~~
35 ~~a prudent surplus be maintained in the Vehicle~~
36 ~~Inspection and Repair Fund. If the surplus exceeds the~~
37 ~~reasonable costs of administration of the programs~~
38 ~~specified in this chapter and in Chapter 20.3~~
39 ~~(commencing with Section 9880) of Division 3 of the~~
40 ~~Business and Professions Code, the department shall, by~~



1 regulation, prescribe a lower fee for the certificates,
2 waivers, and extensions.

3 (d) The sale or transfer of the certificate, waiver, or
4 extension, by a licensed smog check station or test-only
5 station to any other licensed smog check station or to any
6 other person, and the purchase or acquisition of the
7 certificate, waiver, or extension, by any person, other
8 than from the department, the department's designee, or
9 pursuant to a vehicle's inspection or repair conducted
10 pursuant to this chapter, is prohibited.

11 (e) Following implementation of the electronic entry
12 certificate under subdivision (b), the department may
13 require the modification of the analyzers and other
14 equipment required at smog check stations to prevent
15 the entry of a certificate that has not been issued or
16 validated through prepayment of the fee authorized by
17 subdivision (e).

18 (f) The fee charged by licensed smog check stations to
19 consumers for a certificate, waiver, or extension, shall be
20 the same amount that is charged by the department.

21 SEC. 3. Section 44060.5 is added to the Health and
22 Safety Code, to read:

23 44060.5. (a) In addition to the fee for a certificate,
24 waiver, or extension charged in accordance with
25 paragraph (3) of subdivision (c) of Section 44060, a
26 surcharge of one dollar (\$1) shall be imposed for a
27 certificate, waiver, or extension.

28 (b) The surcharge shall be collected by the
29 department and deposited in the High Polluter Repair or
30 Removal Account in the Vehicle Inspection and Repair
31 Fund created by subdivision (a) of Section 44091.

32 SEC. 4. Section 44091 of the Health and Safety Code
33 is amended to read:

34 44091. (a) The High Polluter Repair or Removal
35 Account is hereby created in the Vehicle Inspection and
36 Repair Fund. All money deposited in the account
37 pursuant to this article, Section 44060.5, paragraph (1) of
38 subdivision (e) of Section 6262 of the Revenue and
39 Taxation Code, and paragraphs (1) and (2) of subdivision
40 (b) of Section 4000.7 of the Vehicle Code shall be



1 available, upon appropriation by the Legislature, to the
2 department and the state board to establish and
3 implement a program for the repair or removal of high
4 polluters pursuant to this article and Article 10
5 (commencing with Section 44100).

6 (b) The department may accept donations or grants of
7 funds from any person for purposes of the program and
8 shall deposit that money in the account. Donations,
9 grants, or other commitments of money to the account
10 may be dedicated for specific purposes consistent with
11 the uses of the account, including, but not limited to,
12 purchasing higher emitting vehicles for the purpose of
13 achieving the emission reductions required by the M-1
14 strategy of the 1994 state implementation plan (SIP).

15 (c) The funds that are available in the account in any
16 fiscal year for a particular area that is subject to an
17 inspection and maintenance program shall be
18 determined by calculating the percentage of vehicles
19 registered in that area to the total number of vehicles
20 registered in areas that are subject to inspection and
21 maintenance programs. That percentage shall be the
22 percentage of the total funds allocated to the program in
23 that fiscal year that are available for that particular area.

24 (d) During any fiscal year, the percentage of money in
25 the account expended for repair assistance, removal, and
26 related administration costs shall be set by the
27 department and shall be available for the following
28 purposes in the following amounts:

29 (1) Until the emission reductions required by the M-1
30 strategy of the 1994 SIP are achieved, 50 percent of the
31 funds deposited in the account pursuant to paragraphs
32 (1) and (2) of subdivision (b) of Section 4000.7 of the
33 Vehicle Code that are allocated to the south coast district
34 area pursuant to subdivision (c), plus all other money
35 deposited in the account and dedicated to achieving the
36 emission reductions required by the M-1 strategy of the
37 1994 SIP, shall be available to the state board for the
38 purposes described in subdivision (b) of Section 44104. All
39 emission reductions achieved by using the funds
40 described in this paragraph shall be credited to the M-1



1 strategy. Funds allocated for purposes of this paragraph
2 that are unused in any fiscal year shall be carried over to
3 achieve the M-1 emission reduction objectives in
4 subsequent years.

5 (2) Funds appropriated pursuant to subdivision (a) of
6 Section 44104 shall be available to the state board for the
7 purpose of performing the rulemaking, vehicle testing,
8 and other technical work required to implement the
9 program described in Article 10 (commencing with
10 Section 44100).

11 (3) The balance of this portion of the account shall be
12 available to the department for repairing or removing
13 high-emitting vehicles, and shall be apportioned based on
14 the relative cost effectiveness of repair or removal, as
15 determined by the department.

16 (e) In no case shall the funding available in any
17 subsequent fiscal year to the department for repairing or
18 removing high-emitting vehicles under the inspection
19 and maintenance program be less than the amount made
20 available from the Vehicle Inspection and Repair Fund
21 for that purpose in the 1995-96 fiscal year.

22 SEC. 5. Section 6262 of the Revenue and Taxation
23 Code is amended to read:

24 6262. (a) In addition to any other fees and taxes
25 required to be paid by the Vehicle Code and this code at
26 the time of the registration of a motor vehicle, as defined
27 in Section 415 of the Vehicle Code, a person making
28 application to register a 1975 or subsequent model year
29 gasoline-powered motor vehicle or a 1980 or subsequent
30 model year diesel-powered motor vehicle that is subject
31 to Section 4000.2 of the Vehicle Code shall pay to the
32 Department of Motor Vehicles a motor vehicle smog
33 impact fee of three hundred dollars (\$300) for any such
34 motor vehicle that, prior to the date of application, was
35 last registered outside this state, unless the motor vehicle
36 has been certified pursuant to Chapter 2 (commencing
37 with Section 43100) of Part 5 of Division 26 of the Health
38 and Safety Code. This subdivision does not authorize the
39 registration of motor vehicles that are prohibited from
40 being brought into this state pursuant to Article 1.5



1 ~~(commencing with Section 43150) of Chapter 2 of Part 5~~
2 ~~of Division 26 of the Health and Safety Code.~~

3 ~~(b) (1) The determination that a vehicle is subject to~~
4 ~~the fee imposed pursuant to this section shall be made by~~
5 ~~the Department of Motor Vehicles, or its designee.~~

6 ~~(2) For purposes of this chapter, if a motor vehicle~~
7 ~~does not have affixed a vehicle emission control label~~
8 ~~from which the Department of Motor Vehicles may~~
9 ~~determine whether the vehicle is California-certified, the~~
10 ~~vehicle shall be presumed not to be California-certified~~
11 ~~unless confirmed to be by the manufacturer.~~

12 ~~(3) Any manufacturer of light-duty motor vehicles~~
13 ~~doing business in California shall provide information,~~
14 ~~within 30 days from the date of the receipt of a request~~
15 ~~from the Department of Motor Vehicles, stating whether~~
16 ~~a vehicle, identified in the request by the vehicle~~
17 ~~identification number (VIN) assigned by the~~
18 ~~manufacturer in accordance with federal law, has been~~
19 ~~certified for sale in California pursuant to Chapter 2~~
20 ~~(commencing with Section 43100) of Part 5 of Division 26~~
21 ~~of the Health and Safety Code.~~

22 ~~(4) For purposes of this section, “vehicle emission~~
23 ~~control label” means the permanent label vehicle~~
24 ~~manufacturers are required to affix to motor vehicles~~
25 ~~certified by the State Air Resources Board for sale in~~
26 ~~California in accordance with Chapter 2 (commencing~~
27 ~~with Section 43100) of Part 5 of Division 26 of the Health~~
28 ~~and Safety Code and pursuant to Sections 1965 and 1965.5~~
29 ~~of Title 13 of the California Code of Regulations.~~

30 ~~(e) After deduction of all costs incurred by the~~
31 ~~department in carrying out this section that have been~~
32 ~~approved by the Department of Finance, the revenues~~
33 ~~received pursuant to this section shall be deposited in the~~
34 ~~High Polluter Repair or Removal Account in the Vehicle~~
35 ~~Inspection and Repair Fund, created by subdivision (a)~~
36 ~~of Section 44091 of the Health and Safety Code.~~

37 ~~(d) This section does not apply to a commercial~~
38 ~~vehicle, as defined in Section 260 of the Vehicle Code,~~
39 ~~with an unladen weight in excess of 6,000 pounds.~~



1 ~~(e) This section does not apply to any vehicle owned~~
2 ~~by a person who, pursuant to military orders, or within~~
3 ~~three years from the date of discharge from or release~~
4 ~~from active duty in the armed forces of the United States,~~
5 ~~enters California for the purpose of establishing or~~
6 ~~reestablishing residence or accepting gainful~~
7 ~~employment, if the vehicle was acquired by the owner in~~
8 ~~a foreign jurisdiction where those military orders or that~~
9 ~~active duty required the owner's presence.~~

10 ~~(f) This section does not apply to any vehicle that is~~
11 ~~required to be registered on or after January 1, 1993, that~~
12 ~~has been subject to the fee imposed by this section within~~
13 ~~the prior four years, if the emission control devices and~~
14 ~~systems were not modified out of state subsequent to the~~
15 ~~previous payment of that fee.~~

16 ~~(g) Notwithstanding any other provision of law, the~~
17 ~~fee imposed pursuant to subdivision (a) is imposed~~
18 ~~pursuant to the Sales and Use Tax Law.~~

