

AMENDED IN SENATE AUGUST 24, 1998

AMENDED IN ASSEMBLY MAY 26, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2795

Introduced by ~~Committee on Budget (Ducheny (Chair), Aroner, Brown, Cardenas, Cardoza, Cedillo, Davis, Gallegos, Keeley, Papan, Scott, Strom Martin, Torlakson, and Wright)~~ Assembly Member Oller

(Coauthors: Senators Johannessen, Hurtt, and Thompson)

March 2, 1998

~~An act relating to consumer affairs. An act to amend Sections 44000.5, 44011, 44012, 44013.5, 44014, 44015, 44017, 44020, 44021, 44024.5, 44033, 44036, 44045.5, 44050, 44056, 44060, 44062.1, 44081, and 44081.6 of, to add Section 44011.3 to, and to repeal Sections 44003, 44010.5, 44014.2, 44014.4, 44014.5, and 44014.7 of, the Health and Safety Code, and to amend Section 4000.3 of the Vehicle Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2795, as amended, ~~Committee on Budget~~ Department of Consumer Affairs Motor vehicles: smog check program.

~~Existing law provides for the existence in state government of a Department of Consumer Affairs. Various boards and commissions are within the jurisdiction of the department.~~

~~This bill would express legislative intent to make necessary statutory changes to implement the Budget Act of 1998 relative to the Department of Consumer Affairs, including boards and commissions within the department.~~

(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 also provides for an enhanced motor vehicle inspection and maintenance program in each urbanized area of the state, any part of which is classified by the United States Environmental Protection Agency as a serious, severe, or extreme nonattainment area for carbon monoxide with a design value greater than 12.7 ppm, and in other areas of the state, as specified.

This bill would repeal those provisions providing for an enhanced program and would make related changes.

This bill would also permit every motor vehicle subject to the inspection program to be pretested, as defined. The bill would also require information contained in the renewal of registration notice to notify the owner of the vehicle of the right to have the vehicle pretested.

(2) The bill would require the Bureau of Automotive Repair to provide reimbursement to eligible smog check station owners for certain costs incurred to comply with the enhanced smog check program from specified funds appropriated pursuant to the Budget Act of 1998.

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

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

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

~~SECTION 1. It is the intent of the Legislature in~~

SECTION 1. Section 44000.5 of the Health and Safety Code is amended to read:

44000.5. (a) The Legislature further finds and declares that the motor vehicle inspection and maintenance program implemented under this chapter has, since 1984, provided beneficial emission reductions without undue inconvenience to California vehicle owners, and vehicle owners will benefit from the maintenance by the state of a substantially decentralized program giving them a choice among thousands of independent licensed stations able to perform both inspection and repair of vehicles.

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

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

~~(2) Fleet vehicles shall not be included in the certification requirements established pursuant to Section 44014.7.~~

SEC. 2. Section 44003 of the Health and Safety Code is repealed.

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

~~(2) The enhanced motor vehicle inspection and maintenance program established pursuant to paragraph~~

~~(1) shall be assessed jointly by the department and the state board periodically to determine whether changes in the program may be warranted. On or before January 1, 2003, the department and the state board shall jointly issue a report to the Legislature based on those periodic assessments, recommending any modifications to the enhanced program to improve its operations and lessen its impact on consumers while still achieving the necessary emission reductions to attain air quality standards.~~

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

~~(b) The department may prescribe different test procedures and equipment requirements for those areas described in subdivision (a). Program components shall be operated in all program areas unless otherwise indicated, as determined by the department. In those areas where the biennial program is not implemented and smog check inspections are required to complete the requirements set forth in Sections 4000.1 and 4000.2 of the Vehicle Code, program elements that apply in basic areas, including test equipment requirements for smog check stations, shall apply.~~

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

~~(2) Districts that include areas classified as basic program nonattainment areas pursuant to subdivision (a) may, except as provided in paragraph (1), request the implementation in those areas of test procedures and equipment required for enhanced program areas and any~~

1 ~~other program requirement specified for enhanced~~
2 ~~program areas.~~

3 *SEC. 3. Section 44010.5 of the Health and Safety Code*
4 *is repealed.*

5 ~~44010.5. (a) The department shall implement a~~
6 ~~program with the capacity to commence, by January 1,~~
7 ~~1995, the testing at test-only facilities, in accordance with~~
8 ~~this chapter, of 15 percent of that portion of the total state~~
9 ~~vehicle fleet consisting of vehicles subject to inspection~~
10 ~~each year in the biennial program and that are registered~~
11 ~~in the enhanced program area, as established pursuant to~~
12 ~~paragraph (1) of subdivision (a) of Section 44003.~~

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

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

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

38 ~~(c) The program shall utilize loaded mode~~
39 ~~dynamometer test equipment, as determined through~~
40 ~~the pilot demonstration program.~~

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

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

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

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

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

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

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

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

~~(B) Up to 5 percent to bidders based on the extent to which bidders maximize the potential economic benefit~~

1 of the smog check program on this state over the term of
2 the contract. That potential economic benefit shall
3 include the percentage of work performed by
4 California-based firms, the potential of the total project
5 work force who will be California residents, and the
6 percentage of subcontracts that will be awarded to
7 California-based firms.

8 (4) Any contract executed by the department for the
9 operation of a test-only facility shall expressly require
10 compliance with this chapter and any regulations
11 adopted by the department pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

SEC. 4. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

~~(1)~~

(a) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

~~(2)~~

(b) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

~~(3) (A)~~

(c) (1) Prior to January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year.

~~(B)~~

(2) Beginning January 1, 2003, any motor vehicle that is 30 or more model-years old.

~~(4) (A)~~

(d) (1) Any motor vehicle four or less model-years old.

~~(B)~~

(2) Any motor vehicle excepted by this paragraph subdivision shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

~~(i)~~

(A) The department determines through remote sensing activities or other means that there is a substantial

1 probability that the vehicle has a tampered emission
2 control system or would fail for other cause a smog check
3 test as specified in Section 44012.

4 ~~(ii)–~~

5 (B) The vehicle was previously registered outside this
6 state and is undergoing initial registration in this state.

7 ~~(iii)–~~

8 (C) The vehicle is being registered as a specially
9 constructed vehicle.

10 ~~(iv)–~~

11 (D) The vehicle has been selected for testing pursuant
12 to ~~Section 44014.7~~ or any other provision of this chapter
13 authorizing out-of-cycle testing.

14 ~~(5)–~~

15 (e) Any motor vehicle or class of motor vehicles
16 exempted pursuant to subdivision (b) of Section 44024.5.

17 ~~(6)–~~

18 (f) Any motor vehicle that the department
19 determines would present prohibitive inspection or
20 repair problems.

21 ~~(7)–~~

22 (g) Any vehicle registered to the owner of a fleet
23 licensed pursuant to Section 44020 if the vehicle is
24 garaged exclusively outside the area included in program
25 coverage, and is not primarily operated inside the area
26 included in program coverage.

27 ~~(b) Vehicles designated for program coverage in~~
28 ~~enhanced areas shall be required to obtain inspections~~
29 ~~from appropriate smog check stations operating in~~
30 ~~enhanced areas.~~

31 *SEC. 5. Section 44011.3 is added to the Health and*
32 *Safety Code, to read:*

33 *44011.3. Every motor vehicle that is subject to testing*
34 *pursuant to this chapter may be pretested. As used in this*
35 *section, a pretest is a smog inspection in which the motor*
36 *vehicle is submitted to some or all of the required*
37 *elements of the emissions inspection as specified in*
38 *Section 44012, the results of which will not be reported to*
39 *the Department of Motor Vehicles and for which a*
40 *certificate will not be issued. A person choosing to have*

his or her vehicle pretested has the right to have a complete pretest of the vehicle unless the person requests a partial pretest. If the person requests a partial pretest, the licensed technician or an authorized representative of the licensed smog check station shall inform the vehicle owner that the partial pretest may not indicate the likelihood of the vehicle passing a subsequent official inspection.

SEC. 6. Section 44012 of the Health and Safety Code is amended to read:

44012. The test at the smog check stations shall be performed in accordance with procedures prescribed by the department, pursuant to Section 44013, shall require, ~~at a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed testing in all other~~ program areas, and shall ensure all of the following:

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

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

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

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

(e) For diesel-powered vehicles, if the department determines that the inclusion of those vehicles is

1 technologically and economically feasible, a visual
2 inspection is made of emission control devices and the
3 vehicle's exhaust emissions in an idle mode ~~or loaded~~
4 ~~mode~~ are tested in accordance with procedures
5 prescribed by the department. The test may include
6 testing of emissions of any or all of the pollutants specified
7 in subdivision (c) and, upon the adoption of applicable
8 standards, measurement of emissions of smoke or
9 particulates, or both.

10 (f) A visual or functional check is made of emission
11 control devices specified by the department, including
12 the catalytic converter in those instances in which the
13 department determines it to be necessary to meet the
14 findings of Section 44001. The visual or functional check
15 shall be performed in accordance with procedures
16 prescribed by the department.

17 (g) A determination as to whether the motor vehicle
18 complies with the emission standards for that vehicle's
19 class and model-year as prescribed by the department.

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

27 *SEC. 7. Section 44013.5 of the Health and Safety Code*
28 *is amended to read:*

29 44013.5. (a) If the department, in consultation with
30 the state board, determines that substantial demand for
31 emission retrofit devices exists, the department shall
32 develop a program for the certification of emissions
33 retrofit device installations by licensed installers. The
34 department may require installers of emissions retrofit
35 devices to be qualified pursuant to this chapter. The
36 department may assess biennial license fees upon those
37 installers in an amount not to exceed the reasonable cost
38 of administering the emissions retrofit device
39 certification program.

1 (b) The certification shall be performed at a referee ~~or~~
2 ~~test-only~~ station and shall be based on a visual inspection
3 of the emissions retrofit device and its installation, and
4 verification of the proper operation of any new or
5 modified components that are a part of the emissions
6 retrofit device, and not on the results of an emissions test.

7 (c) The department shall develop a program for the
8 identification of retrofitted vehicles at smog check
9 stations and for providing information required for the
10 inspection of those systems to smog check stations.

11 (d) This section shall become inoperative pursuant to
12 Section 33 of the act adding this section or, in any case,
13 five years from the date determined pursuant to Section
14 32 of the act adding this section, and on the January 1
15 following the date upon which this section becomes
16 inoperative, is repealed.

17 *SEC. 8. Section 44014 of the Health and Safety Code*
18 *is amended to read:*

19 44014. (a) Except as otherwise provided in this
20 chapter, the testing and repair portion of the program
21 shall be conducted by smog check stations licensed by the
22 department, and by smog check technicians who have
23 qualified pursuant to this chapter.

24 ~~(b) (1) A smog check station may be licensed by the~~
25 ~~department as a smog check test-only station and, when~~
26 ~~so licensed, need not comply with the requirement for~~
27 ~~onsite availability of current service and adjustment~~
28 ~~procedures specified in paragraph (3) of subdivision (b)~~
29 ~~of Section 44030. A smog check technician employed by~~
30 ~~a smog check test-only station shall be qualified in~~
31 ~~accordance with this section.~~

32 ~~(2)~~ The department may authorize the placement of
33 referees in qualified ~~test-only~~ smog check stations to
34 provide referee services as a matter of convenience to the
35 public. The department shall supply those referees
36 directly or through a contractor. A referee shall have no
37 ownership interest in the facility at which the referee is
38 located. Referees shall be solely responsible for issuing
39 repair cost waivers, certificates of compliance or

1 noncompliance, and hardship extensions, in accordance
2 with regulations adopted by the department.

3 The department may adopt regulations to establish
4 qualification standards and any special administrative,
5 operational, and licensure standards that the department
6 determines to be necessary for ~~test-only~~ smog check
7 stations that perform referee services.

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

16 (d) Smog check technicians are qualified to test and
17 repair only those classes and categories of vehicles for
18 which they have passed a qualification test administered
19 by the department. The department shall provide for
20 smog check technicians to be qualified for different
21 categories of motor vehicle inspection based on vehicle
22 classification and model-year.

23 (e) The consumer protection-oriented quality
24 assurance portion of the program may be conducted by
25 one or more private entities pursuant to contracts with
26 the department.

27 *SEC. 9. Section 44014.2 of the Health and Safety Code*
28 *is repealed.*

29 ~~44014.2. The department shall develop a program for~~
30 ~~the voluntary certification of licensed smog check~~
31 ~~stations, or the department may accept a smog check~~
32 ~~station certification program proposed by accredited~~
33 ~~industry representatives. Such a certification program,~~
34 ~~which may be called a “gold shield” program, shall be for~~
35 ~~the purpose of providing consumers, whose vehicles fail~~
36 ~~an emissions test at a test-only facility, an option of~~
37 ~~services at a single location to prevent the necessity for~~
38 ~~additional trips back to the test-only facility for vehicle~~
39 ~~certification.~~

1 *SEC. 10. Section 44014.4 of the Health and Safety*
2 *Code is repealed.*

3 ~~44014.4. (a) A licensed smog check station that has~~
4 ~~been certified pursuant to Section 44014.2 may advertise~~
5 ~~that fact, and the advertisement may include the scope of~~
6 ~~work established by the program.~~

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

13 *SEC. 11. Section 44014.5 of the Health and Safety*
14 *Code is repealed.*

15 ~~44014.5. (a) The enhanced program shall provide for~~
16 ~~the testing and retesting of vehicles in accordance with~~
17 ~~Sections 44010.5 and 44014.2 and this section.~~

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

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

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

36 ~~(e) The department shall prohibit test-only facilities~~
37 ~~from engaging in other business activities that represent~~
38 ~~a conflict of interest, as determined by the department.~~

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

~~1 to perform the tests or services, including, but not limited~~
~~2 to, referee services and the issuance of waivers and~~
~~3 hardship extensions required by this chapter. In addition,~~
~~4 the station shall charge and collect the certificate fee~~
~~5 established pursuant to Section 44060. This subdivision~~
~~6 shall apply only to facilities contracted for pursuant to~~
~~7 subdivision (e) of Section 44010.5.~~

~~8 (g) The department shall ensure that there is a~~
~~9 sufficient number of test-only facilities to provide~~
~~10 convenient testing for the following vehicles:~~

~~11 (1) All vehicles identified and confirmed as gross~~
~~12 polluters pursuant to Section 44081 and Section 27156 of~~
~~13 the Vehicle Code.~~

~~14 (2) (A) Vehicles initially identified as gross polluters~~
~~15 by a smog check station licensed as a test and repair~~
~~16 station and certified pursuant to Section 44014.2 may be~~
~~17 issued a certificate of compliance by a test-only facility or~~
~~18 by the licensed smog check station certified pursuant to~~
~~19 Section 44014.2 at which they were initially identified as~~
~~20 a gross polluter.~~

~~21 (B) For purposes of this section, the department may~~
~~22 conduct a pilot program to allow vehicles initially~~
~~23 identified as gross polluters to be repaired and issued a~~
~~24 certificate of compliance by a facility licensed and~~
~~25 certified pursuant to Section 44014.2. For the purposes of~~
~~26 this pilot program, the department may adopt~~
~~27 regulations imposing additional station requirements.~~

~~28 (3) All vehicles designated by the department~~
~~29 pursuant to Sections 44014.7 and 44020.~~

~~30 (4) Vehicles issued an economic hardship extension in~~
~~31 the previous biennial inspection of the vehicle.~~

~~32 (h) The department shall provide a sufficient number~~
~~33 of test-only facilities authorized to perform referee~~
~~34 functions to provide convenient testing for those vehicles~~
~~35 that are required to report to, and receive a certificate of~~
~~36 compliance from, a test-only facility by this chapter,~~
~~37 including all of the following:~~

~~38 (1) All vehicles seeking to utilize state-operated~~
~~39 financial assistance or inclusion in authorized scrap~~
~~40 programs.~~

1 ~~(2) All vehicles unable to obtain a certificate of~~
2 ~~compliance from a licensed smog check station pursuant~~
3 ~~to subdivision (c) of Section 44015.~~

4 ~~(3) Any other vehicles that may be designated by the~~
5 ~~department.~~

6 ~~(i) Gross polluters shall be referred to a test-only~~
7 ~~facility, or a test-and-repair station that is both licensed~~
8 ~~and certified pursuant to Sections 44014 and 44014.2 and~~
9 ~~is participating in the pilot program pursuant to~~
10 ~~subparagraph (B) of paragraph (2) of subdivision (g), for~~
11 ~~a postrepair inspection and retest pursuant to subdivision~~
12 ~~(g). Simply passing the emissions test shall not be a~~
13 ~~sufficient condition for receiving a certificate of~~
14 ~~compliance. A certificate of compliance shall only be~~
15 ~~issued to a vehicle that does not have any defects with its~~
16 ~~emission control system or any defects that could lead to~~
17 ~~damage of its emission control system, as provided in~~
18 ~~regulations adopted by the department.~~

19 *SEC. 12. Section 44014.7 of the Health and Safety*
20 *Code is repealed.*

21 ~~44014.7. (a) The department shall require 2 percent~~
22 ~~of the vehicles required to obtain a certificate of~~
23 ~~compliance each year in enhanced program areas to~~
24 ~~receive their certificate from a test-only facility.~~

25 ~~(b) The department may require a number not to~~
26 ~~exceed 2 percent of the vehicles required to obtain a~~
27 ~~certificate of compliance each year in basic program~~
28 ~~areas to receive their certificate from a test-only facility.~~

29 ~~(c) The vehicles specified in subdivisions (a) and (b)~~
30 ~~shall be selected at random. The vehicles may be included~~
31 ~~among the vehicles subject to subdivision (d) of Section~~
32 ~~44010.5, to the extent that the vehicles are registered in~~
33 ~~enhanced program areas. The review committee may~~
34 ~~review the selection process to ensure that it is a~~
35 ~~statistically significant representation of the vehicles~~
36 ~~subject to the basic and enhanced programs. The~~
37 ~~department shall select the vehicles and the Department~~
38 ~~of Motor Vehicles shall notify the owners of their~~
39 ~~obligation under this section pursuant to Section 4000.3 of~~

1 ~~the Vehicle Code. Selection shall be made from vehicles~~
2 ~~in an area where a test-only facility is located.~~

3 *SEC. 13. Section 44015 of the Health and Safety Code,*
4 *as amended by Chapter 92 of the Statutes of 1998, is*
5 *amended to read:*

6 44015. (a) A licensed smog check station shall not
7 issue a certificate of compliance, except as authorized by
8 this chapter, to any vehicle that meets the following
9 criteria:

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

11 (2) A vehicle that, prior to repairs, has been initially
12 identified by the smog check station as a gross polluter.
13 ~~Certification of a gross polluting vehicle shall be~~
14 ~~conducted by a designated test-only facility, or a~~
15 ~~test and repair station that is both licensed and certified~~
16 ~~pursuant to Section 44014 and 44014.2 and is participating~~
17 ~~in the pilot program pursuant to subparagraph (B) of~~
18 ~~paragraph (2) of subdivision (g) of Section 44014.5.~~

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

20 (b) If a vehicle meets the requirements of Section
21 44012, a smog check station licensed to issue certificates
22 shall issue a certificate of compliance or a certificate of
23 noncompliance.

24 (c) (1) A repair cost waiver shall be issued, upon
25 request of the vehicle owner, by an entity authorized to
26 perform referee functions for a vehicle that has been
27 properly tested but does not meet the applicable emission
28 standards when it is determined that no adjustment or
29 repair can be made that will reduce emissions from the
30 inspected motor vehicle without exceeding the
31 applicable repair cost limit established under Section
32 44017 and that every defect specified by paragraph (2) of
33 subdivision (a) of Section 43204, and by paragraphs (2)
34 and (3) of subdivision (a) of Section 43205, has been
35 corrected. A repair cost waiver issued pursuant to this
36 paragraph shall be accepted in lieu of a certificate of
37 compliance for the purposes of compliance with Section
38 4000.3 of the Vehicle Code. No repair cost waiver shall
39 exceed two years' duration. No repair cost waiver shall be
40 issued until the vehicle owner has expended an amount

1 equal to the applicable repair cost limit specified in
2 Section 44017.

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

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

23 (1) If a motor vehicle was issued a repair cost waiver
24 or economic hardship extension in the previous biennial
25 inspection of that vehicle. A repair cost waiver or
26 economic hardship extension may be issued to a motor
27 vehicle owner only once for a particular motor vehicle
28 belonging to that owner. However, a repair cost waiver
29 or economic hardship extension may be issued for a motor
30 vehicle that participated in a previous waiver or
31 extension program prior to January 1, 1998, as determined
32 by the department. For waivers or extensions issued in
33 the program operative on or after January 1, 1998, a
34 waiver or extension may be issued for a motor vehicle
35 only once per owner.

36 (2) Upon initial registration of all of the following: a
37 direct import motor vehicle, a motor vehicle previously
38 registered outside this state, a dismantled motor vehicle
39 pursuant to Section 11519 of the Vehicle Code, a motor

1 vehicle that has had an engine change, an alternate fuel
2 vehicle, and a specially constructed vehicle.

3 (e) Unless the certificate is issued to a licensed
4 automobile dealer, a certificate of compliance or
5 noncompliance shall be valid for 90 days. If the certificate
6 is issued to a licensed automobile dealer, the certificate
7 shall be valid for 180 days.

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

10 *SEC. 14. Section 44017 of the Health and Safety Code*
11 *is amended to read:*

12 44017. (a) ~~Except as otherwise provided in this~~
13 ~~section or Section 44017.1, a~~ A motor vehicle owner shall
14 qualify for a repair cost waiver only after expenditure of
15 ~~not less than four hundred fifty dollars (\$450) an amount~~
16 for repairs, including parts and labor: *as follows:*

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

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

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

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

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

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

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

38 ~~(c)~~

39 (b) The department shall periodically revise the
40 repair cost limits specified in ~~subdivisions~~ *subdivision* (a)

1 ~~and (b)~~ in accordance with changes in the Consumer
2 Price Index, as published by the United States Bureau of
3 Labor Statistics.

4 ~~(d)~~

5 (c) No repair cost limit shall be imposed in those cases
6 where emissions control equipment is missing or is
7 partially or totally inoperative as a result of being
8 tampered with.

9 *SEC. 15. Section 44020 of the Health and Safety Code*
10 *is amended to read:*

11 44020. Notwithstanding any other provision of this
12 chapter, the department may license any registered
13 owner of a fleet of 10 or more motor vehicles subject to
14 this chapter, who so elects, to implement and conduct the
15 tests and to perform necessary service and adjustment on
16 the fleet's vehicles under this chapter, subject to all of the
17 following conditions:

18 (a) The registered owner's facilities or personnel, or
19 both, or a designated contractor of the registered owner,
20 shall be licensed by the department as a fleet smog check
21 station, and the test and repair system shall conform, in
22 the department's determination, with all provisions of
23 this chapter and all rules and regulations adopted by the
24 department. The regulations shall provide for adequate
25 onsite inspection by the department. Mobile testing
26 equipment certified by the department may be used in
27 accordance with procedures established by the
28 department. The department may prohibit the use of
29 mobile testing equipment if violations occur.

30 (b) A license issued under this section is subject to
31 Sections 44035, 44050, and 44072.10, and may be
32 suspended or revoked by the department whenever the
33 department determines, on the basis of random periodic
34 spot checks of the owner's inspection system and fleet
35 vehicles, that the system fails to conform or that
36 certificates of compliance have been issued by the owner
37 in violation of regulations adopted by the department.
38 Any person licensed to conduct tests and service and
39 adjustments under this section is deemed to have
40 consented to provide the department with whatever

1 access, information, and other cooperation the
2 department reasonably determines are necessary to
3 facilitate the random periodic spot checks.

4 (c) The department or its contractor, on a random
5 periodic basis, shall inspect or observe the inspections
6 performed by licensed fleet smog check stations on not
7 less than 2 percent of the total business fleet vehicles
8 subject to this chapter.

9 (d) A fleet owner licensed to conduct tests or make
10 repairs pursuant to this chapter shall issue certificates of
11 compliance for motor vehicles. The cost limits in Section
12 44017 and the economic hardship extension provisions in
13 this chapter shall not apply to any motor vehicle owned
14 by a fleet owner licensed pursuant to this section.

15 (e) Notwithstanding subdivision (d), certificates of
16 compliance or noncompliance prepared solely for the
17 disposal or sale of motor vehicles owned by a fleet owner
18 licensed pursuant to this section shall be subject to the
19 cost limits in Section 44017.

20 (f) The department shall establish initial and renewal
21 license fees, which shall not exceed the reasonable costs
22 of administering this section.

23 ~~(g) Notwithstanding any other provision of this~~
24 ~~section, fleets consisting of vehicles for hire or vehicles~~
25 ~~which accumulate high mileage, as defined by the~~
26 ~~department, shall go to a test-only station when a smog~~
27 ~~check certificate of compliance is required. Initially, high~~
28 ~~mileage vehicles shall be defined as vehicles which~~
29 ~~accumulate 50,000 miles or more each year. In addition,~~
30 ~~fleets which do not operate high mileage vehicles may be~~
31 ~~required to obtain certificates of compliance from the~~
32 ~~test-only station if they fail to comply with this chapter.~~

33 ~~(h)~~ Notwithstanding any other provision of this
34 chapter, the department shall have the authority, by
35 regulation, to require testing of vehicle fleets consistent
36 with regulations adopted by the Environmental
37 Protection Agency, if necessary to meet the emission
38 reduction performance standard established by the
39 agency, as determined by the department.

1 SEC. 16. *Section 44021 of the Health and Safety Code*
2 *is amended to read:*

3 44021. (a) (1) The Inspection and Maintenance
4 Review Committee is hereby created to analyze the
5 effect of the improved inspection and maintenance
6 program established by this chapter on motor vehicle
7 emissions and air quality. The functions of the review
8 committee shall be advisory in nature and primarily
9 pertain to the gathering, analysis, and evaluation of
10 information.

11 (2) The members of the review committee shall
12 receive no compensation, but shall be reimbursed by the
13 department for their reasonable expenses in performing
14 committee duties. The state board and the department
15 shall provide the review committee with any necessary
16 technical and clerical support in its evaluation and study.

17 (3) (A) The review committee shall consist of 13
18 members, nine to be appointed by the Governor, two by
19 the Senate Committee on Rules, and two by the Speaker
20 of the Assembly. All members shall be appointed to
21 four-year terms, and the Governor shall appoint from
22 among his or her appointees the chairperson of the
23 review committee.

24 (B) The appointees of the Governor shall include an
25 air pollution control officer from ~~an enhanced~~ a program
26 nonattainment area, three public members, an expert in
27 air quality, an economist, a social scientist, a
28 representative of the inspection and maintenance
29 industry, and a representative of stationary source
30 emissions organizations.

31 (C) The appointees of the Senate Committee on Rules
32 shall include an environmental member with expertise in
33 air quality, and a representative from the inspection and
34 maintenance industry.

35 (D) The appointees of the Speaker of the Assembly
36 shall include an environmental member with expertise in
37 air quality, and a representative of a local law
38 enforcement agency charged with prosecuting violations
39 of this chapter in ~~an enhanced~~ a program nonattainment
40 area.

1 (4) In preparing its evaluations of program
2 effectiveness as provided in paragraph (1), the review
3 committee shall consult with the Department of the
4 California Highway Patrol, the Department of Motor
5 Vehicles, and any other appropriate agencies, as well as
6 the department and the state board, shall schedule and
7 conduct periodic meetings in the performance of its
8 duties, and shall meet and consult with local, state, and
9 federal officials involved in the evaluation of motor
10 vehicle inspection and maintenance programs. At the
11 request of the committee, the department or the state
12 board may, on behalf of the committee, contract with
13 independent entities to assist in the committee's
14 evaluations.

15 (b) The review committee shall submit periodic
16 written reports to the Legislature and the Governor on
17 the performance of the program and make
18 recommendations on program improvements at least
19 every 12 months. The review committee's reports shall
20 quantify the reduction in emissions and improvement in
21 air quality attributed to the program. Any reports, other
22 than those required by this section, that the review
23 committee is required to provide pursuant to this chapter
24 shall also be transmitted to the Secretary for
25 Environmental Protection and the Secretary for State
26 and Consumer Services.

27 (c) The review committee shall work closely with all
28 interested parties in preparing the information required
29 by subdivisions (a) and (b) and shall consider the reports
30 provided pursuant to subdivision (e). The review
31 committee shall hold at least one public hearing on its
32 findings and recommendations prior to submitting its
33 reports. The reports shall include statutory language to
34 implement its recommendations, and shall recommend
35 the timeframe for making any changes to the program.
36 The review committee shall seek comments from the
37 department, the Department of Motor Vehicles, the
38 Department of the California Highway Patrol, and the
39 state board prior to submitting its reports, and those
40 comments shall be published as an appendix to the report.

1 (d) The review committee shall participate in the
2 demonstration program authorized by Section 44081.6, as
3 provided by that section.

4 (e) The state board, in cooperation with the
5 department, shall periodically submit reports to the
6 review committee. The reports shall include an
7 assessment of the impact on emissions of continuing the
8 exemption from inspection of motor vehicles newer than
9 five years old; a comparison of the actual mass emission
10 reductions ~~being~~ achieved by the enhanced program to
11 those required by the State Implementation Plan; and
12 recommendations to improve the effectiveness and
13 cost-effectiveness of the program, including specific
14 recommendations addressing any discrepancy between
15 emissions achieved and those in the State
16 Implementation Plan. The first report shall be submitted
17 not later than January 1, 2000, and reports shall be
18 submitted triennially thereafter. In preparing the
19 reports, the state board shall use data collected during
20 inspections and repair, and data collected using roadside
21 measurements, and may conduct additional testing, as
22 determined to be necessary, to accurately quantify the
23 mass emissions reduced.

24 *SEC. 17. Section 44024.5 of the Health and Safety*
25 *Code is amended to read:*

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

33 (b) The department, in cooperation with the state
34 board, shall perform periodic analyses of the statistical
35 and emissions profiles created pursuant to subdivision
36 (a). The department and the state board, in consultation
37 with the Inspection and Maintenance Review
38 Committee, may determine that, in addition to the
39 vehicles excepted pursuant to Section 44011, certain
40 other motor vehicles may be excepted from the biennial

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

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

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

34 *SEC. 18. Section 44033 of the Health and Safety Code*
35 *is amended to read:*

36 44033. (a) ~~(1)~~ Any facility meeting the
37 requirements established by the department pursuant to
38 this chapter may be licensed as a ~~test-only~~, test and repair;
39 or repair-only smog check station. A licensed smog check

1 station shall display an identifying sign prescribed by the
2 department in a manner conspicuous to the public.

3 ~~(2) A licensed smog check station certified pursuant to~~
4 ~~Section 44014.2 shall display an identifying sign~~
5 ~~prescribed by the department.~~

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

10 (c) If a motor vehicle, including a commercial vehicle,
11 is tested at a facility licensed to perform tests and repairs
12 pursuant to this chapter, the facility shall provide the
13 customer with a written estimate pursuant to Section
14 9884.9 of the Business and Professions Code. The written
15 estimate shall contain a notice to the customer stating
16 that the customer may choose another smog check station
17 to perform needed repairs, installations, adjustments, or
18 subsequent tests.

19 (d) Charges for testing or repair, or both, shall be
20 separately stated.

21 (e) The department shall require the posting of station
22 licenses and qualified technicians' certificates
23 prominently in each place of business so as to be readily
24 visible to the public.

25 *SEC. 19. Section 44036 of the Health and Safety Code*
26 *is amended to read:*

27 44036. (a) The consumer protection-oriented quality
28 assurance portion of the motor vehicle inspection
29 program shall ensure uniform and consistent tests and
30 repairs by all qualified smog check technicians and
31 licensed smog check stations throughout the state, and
32 shall include a number of stations providing referee
33 functions available to consumers.

34 (b) All licensed smog check stations shall utilize
35 original equipment and replacement parts that are
36 certified by the department. The department shall
37 charge a fee for certification testing of the equipment or
38 the replacement parts. The fee for certification testing of
39 equipment shall be fixed by the department based upon
40 its actual costs of certification testing, shall be calculated

1 from the time that the equipment is submitted for
2 certification testing until the time that the certification
3 testing is complete, and shall not exceed ten thousand
4 dollars (\$10,000). The fee for certification testing of
5 replacement parts shall be determined by the
6 department based upon its actual costs of certification
7 testing, shall be calculated from the time that the
8 replacement part is submitted for certification testing
9 until the time that the certification testing is complete,
10 and shall not exceed two thousand five hundred dollars
11 (\$2,500). The department shall adopt, and may revise,
12 standards for certification and decertification of the
13 equipment, which may include a device for testing of
14 emissions of oxides of nitrogen. As expeditiously as
15 possible, the department shall adopt equipment
16 standards that include a test analyzer system containing
17 all of the following:

18 (1) A microprocessor to control test sequencing,
19 selection of proper test standards, the automatic pass or
20 fail decision, and the format for the test report and the
21 recorded data file. The microprocessor shall be capable of
22 using a standardized programming language specified by
23 the department.

24 (2) An exhaust gas analysis portion with an analyzer
25 for hydrocarbons, carbon monoxide, and carbon dioxide
26 that is designed to accommodate an optional oxides of
27 nitrogen analyzer. ~~An oxides of nitrogen analyzer shall be~~
28 ~~required in the enhanced program areas.~~

29 (3) Equipment necessary to perform visual and
30 functional tests of emission control devices required by
31 the department.

32 (4) A device to accept and record motor vehicle
33 identification information, including a device capable of
34 reading bar code information pursuant to regulations of
35 the state board. The device shall have the ability to
36 identify, with the cooperation of the Department of
37 Motor Vehicles, smog inspections performed on vehicles
38 sold by used car dealers.

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

1 (6) A mass storage device capable of storing not less
2 than the minimum amount of program software and data
3 specified by the department.

4 (7) A device to provide for the periodic modification
5 of all program and data files contained on the mass
6 storage device, using a standardized form of removable
7 media conforming to specifications of the department.

8 (8) A device that provides for the storage of test
9 records on a standardized form of removable media
10 conforming to specifications of the department.

11 (9) One or more communications ports conforming to
12 the specifications established by the department as
13 necessary to provide real time communication, or
14 communication that is consistent with maintaining a
15 superior quality assurance program and efficient
16 information transfer, between the test equipment and
17 the centralized computer data base through the
18 computer network maintained by the department
19 pursuant to Section 44037.1.

20 (10) An interface capable of monitoring equipment
21 used with loaded mode testing, idle testing, on board
22 diagnostic testing, or other tests prescribed by the
23 department.

24 (11) Any other features that the department
25 determines are necessary to increase the effectiveness of
26 the program, including, but not limited to, a loaded mode
27 dynamometer for purposes of oxides of nitrogen
28 detection, and other equipment necessary to detect
29 nonexhaust-related volatile organic compound emissions,
30 such as found in fuel system evaporative emissions and
31 crankcase ventilation emissions.

32 (c) The department shall require all smog check
33 stations to use equipment meeting the requirements of
34 subdivision (b) as soon as possible, but not later than
35 January 1, 1996. However, the department may defer the
36 requirement for any equipment, external to the chassis of
37 the test analyzer system, needed to read bar code
38 information, until a substantial portion of the vehicles
39 subject to this chapter are equipped with bar code labels.
40 Prior to the imposition of a requirement for equipment

1 meeting the requirements of subdivision (b), every smog
2 check station shall use equipment meeting the
3 specifications of the department in effect on January 1,
4 1988.

5 (d) The quality assurance portion shall provide for
6 inspections of licensed smog check stations, data
7 collection and forwarding, equipment accuracy checks,
8 operation of referee stations, and other necessary
9 functions. If the services are contracted for pursuant to
10 subdivision (e) of Section 44014, the department shall
11 prepare detailed specifications and solicit bids from
12 private entities for the implementation of the quality
13 assurance functions.

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

19 (f) (1) Equipment manufacturers shall furnish to the
20 department, and shall install, software updates as
21 specified by the department. The department shall allow
22 equipment manufacturers six months, from the date the
23 department issues its proposed specifications for periodic
24 software updates, to obtain department approval that the
25 updates meet the proposed specifications and to install
26 the updates in all equipment subject to the updates.
27 During the first 30 days of the six-month period, the
28 manufacturers shall be permitted to review and to
29 comment upon the proposed specifications. However,
30 notwithstanding any other provision of this section, the
31 department may order manufacturers to install software
32 changes in a shorter period of time upon a finding by the
33 department that a previously installed update does not
34 meet current specifications. A manufacturer's failure to
35 furnish or install software updates as so specified is cause
36 for the department to decertify the manufacturer's test
37 analyzer system or to issue a citation to the manufacturer.
38 The citation shall specify the nature of the violation and
39 may specify a civil penalty not to exceed one thousand
40 dollars (\$1,000) for each day the manufacturer fails to

1 furnish or install the specified software updates by the
2 specified period. In assessing a civil penalty pursuant to
3 this subdivision, the department shall give due
4 consideration, in determining the appropriateness of the
5 amount of the civil penalty, to factors such as the gravity
6 of the violation, the good faith of the manufacturer, and
7 the history of previous violations.

8 (2) The citations shall be served pursuant to
9 subdivision (c) of Section 11505 of the Government Code.
10 The manufacturer may request a hearing in accordance
11 with Chapter 5 (commencing with Section 11500) of Part
12 1 of Division 3 of Title 2 of the Government Code. A
13 request for a hearing shall be submitted in writing within
14 30 days of service of the citation, and shall be delivered to
15 the office of the department in Sacramento. Hearings and
16 related procedures under this subdivision shall be
17 conducted in the same manner as proceedings for
18 adjudication of an accusation under ~~that~~ Chapter 5
19 *(commencing with Section 11500) of Part 1 of Division 3*
20 *of Title 2 of the Government Code*, except as otherwise
21 specified in this article.

22 (3) If within 30 days from the date of service of the
23 citation, the manufacturer fails to request a hearing, the
24 citation shall be deemed the final order of the
25 department.

26 (4) Any failure to comply with the final order of the
27 department for payment of a civil penalty, or to pay the
28 amount specified in any settlement executed by the
29 licensee and the Director of Consumer Affairs, is cause for
30 decertification of the manufacturer's test analyzer
31 system.

32 *SEC. 20. Section 44045.5 of the Health and Safety*
33 *Code is amended to read:*

34 44045.5. (a) This section describes the qualifications
35 to be met by smog check technician applicants effective
36 January 1, 1995. The department shall, by regulation,
37 establish requirements for the licensure of smog check
38 technicians ~~which~~ *that* are necessary to enable the
39 program to meet the applicable emission reduction
40 performance standards, to include, at a minimum:

1 (1) Either of the following:

2 (A) Certification standards for all technicians in the
3 program ~~which~~ *that* are equivalent or superior to the
4 standards applicable for certification by an established
5 national certification or accrediting institution to
6 perform service on automotive engines and electrical
7 systems.

8 (B) Successful completion of a training program
9 certified by the department under Section 44045.6.

10 (2) In addition to the requirement in paragraph (1),
11 a minimum of two years' experience performing repairs
12 to motor vehicle emission control systems or experience
13 approved by the department, or an associate degree in an
14 automotive technology curriculum or an equivalent
15 degree as determined by the department.

16 (3) An examination process that effectively
17 determines whether applicants are all of the following:

18 (A) Knowledgeable regarding the visual, functional,
19 and exhaust and evaporative emissions inspection and
20 testing procedures specified by the department,
21 including a demonstrated understanding of loaded mode
22 testing principles, purpose, procedures and equipment.

23 (B) Knowledgeable regarding misfire detection, air
24 injection testing, closed-loop system testing, and generic
25 idle adjustment procedures specified by the department.

26 ~~(C) Capable of using emissions manuals and tuneup~~
27 ~~labels to properly identify required emission control~~
28 ~~systems and components on any vehicle subject to the~~
29 ~~enhanced program.~~

30 (4) ~~Not later than July 1, 1995, the~~ *The* examination
31 shall use state-of-the-art technology, which may include
32 computer simulations or other computer-based
33 examination formats to determine whether applicants
34 can properly identify, diagnose, and repair
35 emission-related problems. The department may
36 contract for the development and administration of this
37 examination.

38 (b) The department shall not license any technician
39 unless the department has determined that the person is
40 able to perform the inspection, testing, and repair tasks

1 required under the program on all vehicles subject to the
2 program, except that the department may limit this
3 requirement to specified makes or models of vehicles if
4 a technician requests licensing limited to specified makes
5 or models of vehicles.

6 (c) The department may establish more than one
7 category or level of licensure, and may provide for the
8 licensing of interns or trainees if those persons do all of
9 their test and repair work under the supervision of a
10 licensed technician.

11 (d) The department shall require the renewal of smog
12 check technician licenses every two years, and shall
13 establish any necessary and appropriate requirements for
14 renewal.

15 *SEC. 21. Section 44050 of the Health and Safety Code*
16 *is amended to read:*

17 44050. (a) If, upon investigation, the department has
18 probable cause to believe that a licensed smog check
19 station, ~~a test-only station contractor,~~ or a fleet owner
20 licensed under Section 44020 has violated this chapter, or
21 any regulation adopted pursuant to this chapter, the
22 department may issue a citation to the licensee,
23 ~~contractor,~~ or fleet owner. The citation shall specify the
24 nature of the violation and may specify a civil penalty
25 assessed by the department pursuant to Section 44051 or
26 44051.5.

27 (b) If, upon investigation, the department has
28 probable cause to believe that a qualified smog check
29 technician has violated Section 44012, 44015, 44016, or
30 44032, or any regulation of the department adopted
31 pursuant to this chapter, the department may issue a
32 citation to the technician. The citation shall specify the
33 nature of the violation and, in addition, whichever of the
34 following applies:

35 (1) For a first citation, the smog check technician shall
36 successfully complete one or more retraining courses
37 prescribed by the department pursuant to subdivision (c)
38 of Section 44031.5.

39 (2) For a second citation, the smog check technician
40 shall successfully complete one or more retraining

1 courses prescribed by the department pursuant to
2 subdivision (c) of Section 44031.5 and the technician shall
3 perform inspections or repairs pursuant to this chapter
4 under the direction of a technician in good standing, as
5 defined by the department.

6 (3) For a third citation, the smog check technician
7 shall successfully complete an advanced retraining course
8 prescribed by the department and shall perform no
9 inspection or repair pursuant to this chapter until that
10 completion.

11 (4) For a fourth citation, the smog check technician's
12 qualification may be permanently revoked.

13 (c) The citation shall be served pursuant to subdivision
14 (c) of Section 11505 of the Government Code.

15 *SEC. 22. Section 44056 of the Health and Safety Code*
16 *is amended to read:*

17 44056. (a) Except as otherwise provided in Sections
18 44051 and 44051.5, any person who violates this chapter,
19 or any order, rule, or regulation of the department
20 adopted pursuant to this chapter, is liable for a civil
21 penalty of not less than one hundred fifty dollars (\$150)
22 and not more than two thousand five hundred dollars
23 (\$2,500) for each day in which each violation occurs. Any
24 action to recover civil penalties shall be brought by the
25 Attorney General in the name of the state on behalf of the
26 department, or may be brought by any district attorney,
27 city attorney, or attorney for a district.

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

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

35 (2) Obtains, or attempts to obtain, a certificate of
36 compliance, a repair cost waiver, or economic hardship
37 extension by means of fraud, including, but not limited to,
38 offering or giving any form of financial or other
39 inducement to any person for the purpose of obtaining a

1 certificate of compliance for a vehicle that has not been
2 tested or has been tested improperly.

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

6 (4) Obtains, or attempts to obtain, a certificate of
7 compliance ~~by other means when required to report to~~
8 ~~the test-only facility~~ *without complying with this chapter*
9 after being identified as a tampered vehicle or gross
10 polluter pursuant to Section 44015 or 44081.

11 (c) Any person who obtains or attempts to obtain a
12 repair cost waiver, or economic hardship extension
13 pursuant to this chapter by falsifying information shall be
14 subject to a civil penalty of not less than one hundred fifty
15 dollars (\$150) and not more than one thousand dollars
16 (\$1,000), and shall be made ineligible for receiving any
17 repair assistance of any kind pursuant to this chapter.

18 *SEC. 23. Section 44060 of the Health and Safety Code*
19 *is amended to read:*

20 44060. (a) The department shall prescribe the form
21 of the certificate of compliance or noncompliance, repair
22 cost waivers, and economic hardship extensions.

23 (b) The certificates, repair cost waivers, and economic
24 hardship extensions shall be in the form of an electronic
25 entry filed with the department, the Department of
26 Motor Vehicles, and any other person designated by the
27 department. The department shall ensure that the motor
28 vehicle owner or operator is provided with a written
29 report, signed by the licensed technician who performed
30 the inspection, of any test performed by a smog check
31 station, including a pass or fail indication, and written
32 confirmation of the issuance of the certificate.

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

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

12 (3) Except for adjustments to reflect changes in the
13 Consumer Price Index, as published by the United States
14 Bureau of Labor Statistics, the fee for each certificate,
15 waiver, or extension shall not exceed 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.

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 of four dollars (\$4).
30 Payment of this fee shall be made to the Department of
31 Motor Vehicles at the time of registration of the motor
32 vehicle.

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

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

1 than from the department, the department's designee, or
2 pursuant to a vehicle's inspection or repair conducted
3 pursuant to this chapter, is prohibited.

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

11 (g) The fee charged by licensed smog check stations
12 to consumers for a certificate, waiver, or extension shall
13 be the same amount that is charged by the department.

14 *SEC. 24. Section 44062.1 of the Health and Safety*
15 *Code is amended 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 based
40 on at least one form of documentation, as determined by

1 the department, including, but not limited to, (A) an
2 income tax return, (B) an employment warrant, or (C)
3 a form of public assistance verification.

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

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

18 (e) The qualified low-income motor vehicle owner
19 receiving repair assistance pursuant to this section shall
20 contribute a copayment equivalent to the repair cost
21 limit, as determined by the department as specified in
22 Section 44017.1, either in cash, or in emissions-related
23 partial repairs as verified by a ~~test-only~~ *licensed smog*
24 *check* station pursuant to paragraph (2) of subdivision
25 (c) of Section 44015, or a combination thereof. If the
26 repair cost exceeds the applicable repair cost limit, the
27 department shall inform a qualified low-income motor
28 vehicle owner of all options for compliance at the time of
29 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. 25. Section 44081 of the Health and Safety Code*
14 *is amended to read:*

15 44081. (a) (1) The department, in cooperation with
16 the state board, shall institute procedures for auditing the
17 emissions of vehicles while actually being driven on the
18 streets and highways of the state. The department may
19 undertake those procedures itself or seek a qualified
20 vendor of these services. The primary object of the
21 procedures shall be the detection of gross polluters. The
22 procedures shall consist of techniques and technologies
23 determined to be effective for that purpose by the
24 department, including, but not limited to, remote
25 sensing. The procedures may include pullovers for
26 roadside emissions testing and inspection. The
27 department shall consider the recommendations of the
28 review committee based on the outcome of the pilot
29 demonstration program conducted pursuant to Section
30 44081.6.

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

34 (b) The department shall, by regulation, establish a
35 program for the out-of-cycle testing and repair of motor
36 vehicles found, through roadside auditing, to be emitting
37 at levels that exceed specified standards. The program
38 shall include all of the following elements:

39 (1) Emission standards, and test and inspection
40 procedures and regulations, adopted in coordination with

1 the state board, applicable to vehicles tested during
2 roadside auditing. Emission standards for issuance of a
3 notice of noncompliance to a gross polluter shall be
4 designed to maximize the identification of vehicles with
5 substantial excess emissions.

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

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

35 (4) Procedures requiring owners of vehicles
36 confirmed as gross polluters to have the vehicle repaired,
37 resubmitted for testing, and obtain a certificate of
38 compliance from a designated test-only facility or
39 removed from service as attested by a certificate of
40 nonoperation from the Department of Motor Vehicles

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

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

27 (c) The department may adopt any other regulations
 28 necessary for the effective implementation of this section,
 29 as determined by the department.

30 (d) Upon the request of the department, the
 31 Department of the California Highway Patrol shall
 32 provide assistance in conducting roadside auditing, to
 33 consist of (1) the stopping of vehicles and traffic
 34 management, and (2) the issuance of notices of
 35 noncompliance to gross polluters. The department shall
 36 reimburse the Department of the California Highway
 37 Patrol for its costs of providing those services. The
 38 Department of Transportation and affected local
 39 agencies shall provide necessary assistance and

1 cooperation to the department in the operation of the
2 program.

3 (e) There shall be no repair cost limit imposed
4 pursuant to Section 44017 for any repairs that are
5 required to be made under the roadside auditing
6 program, except as provided in subdivision (c) of Section
7 44017.

8 (f) This section does not apply to vehicles operating
9 under a valid repair cost waiver or economic hardship
10 extension issued pursuant to Section 44015.

11 *SEC. 26. Section 44081.6 of the Health and Safety*
12 *Code is amended to read:*

13 44081.6. (a) The California Environmental
14 Protection Agency, the state board, and the department,
15 in cooperation with, and with the participation of, the
16 Environmental Protection Agency, shall jointly
17 undertake a pilot demonstration program to do all of the
18 following:

19 (1) Determine the emission reduction effectiveness of
20 alternative loaded mode emission tests compared to the
21 IM240 test.

22 (2) Quantify the emission reductions, above and
23 beyond those required by Environmental Protection
24 Agency regulation or by the biennial test requirement,
25 achievable from a remote sensing-based program that
26 identifies gross polluting and other vehicles and requires
27 the immediate repair and retest of those gross polluting
28 vehicles ~~at a test-only station established by this chapter.~~

29 ~~(3) Determine if high polluting vehicles can be~~
30 ~~identified and directed to test-only stations using criteria~~
31 ~~other than, or in addition to, age and model year, and~~
32 ~~whether this reduces the number of vehicles which would~~
33 ~~otherwise be subject to inspection at test-only stations.~~

34 ~~(4) Qualify emission reductions above and beyond~~
35 ~~those that are required by the regulations of the~~
36 ~~Environmental Protection Agency, achievable from~~
37 ~~other program enhancements pursuant to this chapter.~~

38 ~~(5) Determine the extent to which the capacity of the~~
39 ~~test-only station network established pursuant to Section~~
40 ~~44010.5 needs to be expanded to comply with~~

~~Environmental Protection Agency performance standards.~~

(b) The California Environmental Protection Agency shall enter into a memorandum of agreement with the Environmental Protection Agency to establish the protocol for the pilot demonstration program. The memorandum of agreement shall ensure, to the extent possible, that the Environmental Protection Agency will accept the results of the pilot demonstration program as the findings of the Administrator of the Environmental Protection Agency. The pilot demonstration program shall be conducted pursuant to the memorandum of agreement.

(c) The review committee established pursuant to Section 44021 shall review the protocol for the pilot demonstration program, as established in the signed memorandum of agreement, and recommend any modification that the review committee finds to be appropriate for the pilot demonstration program. Any such modification shall become effective only upon the written agreement of the California Environmental Protection Agency and the Environmental Protection Agency.

(d) The department shall contract, on behalf of the committee, with an independent entity to ensure quality control in the collection of data pursuant to the pilot demonstration program. The department shall also contract, on behalf of the committee, for an independent analysis of the data produced by the pilot demonstration program.

(e) Any contract entered into pursuant to this section shall not be subject to any restrictions that are applicable to contracts in the Government Code or in the Public Contract Code. The department shall report to the Legislature any action that is taken in accordance with this subdivision.

(f) To the extent possible, the pilot demonstration program shall be conducted using equipment, facilities, and staff of the state board, the department, and the Environmental Protection Agency.

1 (g) The pilot demonstration program shall provide
2 for, but not be limited to, all of the following:

3 (1) For the purposes of this section, any vehicle subject
4 to the inspection and maintenance program may be
5 selected to participate in the pilot demonstration
6 program regardless of when last inspected pursuant to
7 this chapter.

8 (2) Registered owners of vehicles selected to
9 participate in the pilot demonstration program shall
10 make the vehicle available for testing within a time
11 period and at a testing facility designated by the
12 department. If necessary, the department shall increase
13 the capacity of the existing referee network in the area or
14 areas where the pilot demonstration program will be
15 operating, in order to accommodate the convenient
16 testing of selected vehicles.

17 (3) If the department finds that a vehicle is emitting
18 excessive emissions, the vehicle owner shall be required
19 to make necessary repairs within the existing cost limits
20 and return to a testing facility designated by the
21 department. The vehicle owner shall have additional
22 repairs made if the repairs are requested and funded by
23 the department. The department shall also fund the cost
24 of any necessary repairs if the owner of the vehicle has,
25 within the last two years, already paid for
26 emissions-related repairs to the same vehicle in an
27 amount at least equal to the existing cost limits, in order
28 to obtain a certificate of compliance or an emission cost
29 waiver.

30 (4) Vehicle owners who fail to bring the vehicle in for
31 inspection or fail to have repairs made pursuant to this
32 section shall be issued notices of noncompliance. The
33 notice shall provide that, unless the vehicle is brought to
34 a designated testing facility for testing, or repair facility
35 for repairs, within 15 days of notice of the requirement,
36 the owner will be required to pay an administrative fee
37 of not more than five dollars (\$5) a day, not to exceed two
38 hundred fifty dollars (\$250), to be collected by the
39 Department of Motor Vehicles at the next annual
40 registration renewal or the next change of ownership of



1 the vehicle, whichever occurs first. Commencing on the
2 31st day after issuance of the notice of noncompliance, the
3 fee shall accrue at the rate of five dollars (\$5) per day up
4 to the two hundred fifty dollars (\$250) maximum. Except
5 as provided in subdivision (b) of Section 9250.18 of the
6 Vehicle Code, any revenues collected by the Department
7 of Motor Vehicles pursuant to this subdivision and Section
8 9250.18 of the Vehicle Code shall be deposited into the
9 Vehicle Inspection and Repair Fund by the Department
10 of Motor Vehicles.

11 (h) The Department of Motor Vehicles, the
12 Department of Transportation, local agencies, and the
13 state board shall provide necessary support for the
14 program established pursuant to this section.

15 (i) As soon as possible after ~~the effective date of this~~
16 ~~section~~ September 30, 1994, the department and the state
17 board shall develop, implement, and revise as needed,
18 emissions test procedures and emissions standards
19 necessary to conduct the pilot demonstration program.

20 *SEC. 27. Section 4000.3 of the Vehicle Code is*
21 *amended to read:*

22 4000.3. (a) Except as otherwise provided in Section
23 44011 of the Health and Safety Code, the department
24 shall require biennially, upon renewal of registration of
25 any motor vehicle subject to Part 5 (commencing with
26 Section 43000) of Division 26 of the Health and Safety
27 Code, a valid certificate of compliance issued in
28 accordance with Section 44015 of the Health and Safety
29 Code. The department, in consultation with the
30 Department of Consumer Affairs, shall develop a
31 schedule under which vehicles shall be required
32 biennially to obtain certificates of compliance.

33 (b) The Department of Consumer Affairs shall
34 provide the department with information on vehicle
35 classes that are subject to the motor vehicle inspection
36 and maintenance program.

37 (c) The department shall include any information
38 pamphlet provided by the Department of Consumer
39 Affairs with notification of the inspection requirement
40 and with its renewal notices. *The information pamphlet*

1 in the renewal notice shall also notify the owner of the
2 motor vehicle of the right to have the vehicle pretested
3 pursuant to Section 44011.3 of the Health and Safety
4 Code.

5 SEC. 28. (a) It is the intent of the Legislature to
6 reimburse smog check station owners for the reasonable
7 costs incurred as a result of complying with the
8 regulations for enhanced vehicle inspection and
9 maintenance areas.

10 (b) The Bureau of Automotive Repair (BAR) shall
11 provide reimbursement from funds appropriated
12 pursuant to Item 1111-001-0582 of Section 2.00 of the
13 Budget Act of 1998 to eligible smog check station owners
14 for appropriate costs including, but not limited to, both of
15 the following:

16 (1) All reasonable equipment and installation costs
17 associated with complying with BAR regulations for
18 enhanced vehicle inspection and maintenance areas.

19 (2) Costs associated with reasonable structural
20 building modifications made to accommodate the
21 equipment.

22 (c) For purposes of implementing this section, the
23 BAR shall determine all of the following:

24 (1) The proper documentation required to verify
25 reimbursable expenses pursuant to subdivision (b).

26 (2) The scope of acceptable and reasonable
27 reimbursement costs.

28 (3) A reasonable deadline for the submission of claims
29 from affected smog check and test-only station owners.

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

35 In order to make statutory changes to implement the
36 Budget Act of 1998 at the earliest possible time, it is
37 necessary that this act take effect immediately.

38 ~~enacting this act to make the necessary statutory changes~~
39 ~~to implement the Budget Act of 1998 relative to the~~

- 1 ~~Department of Consumer Affairs, including boards and~~
- 2 ~~commissions within the department.~~

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