

1-1 By: West S.B. No. 197
1-2 (In the Senate - Filed November 9, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; May 9, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 9, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 197 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the compulsory inspection of motor vehicles; providing
1-11 penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 548.3065, Transportation Code, is
1-14 amended by amending Subsection (c) and adding Subsection (c-1) to
1-15 read as follows:

1-16 (c) For purposes of Subsection (a) [Except as otherwise
1-17 provided by this section], the procedures for determining and
1-18 administering an administrative penalty [under this section]
1-19 against a person charged with violating this chapter are the same as
1-20 those prescribed by Section 643.251 for determining and
1-21 administering an administrative penalty against a motor carrier
1-22 under that section.

1-23 (c-1) The conservation commission may impose an
1-24 administrative penalty on a person in the amount of not more than
1-25 \$500 for each violation of this subchapter or a rule adopted by the
1-26 conservation commission under this subchapter.

1-27 SECTION 2. Subchapter G, Chapter 548, Transportation Code,
1-28 is amended by adding Section 548.4045 to read as follows:

1-29 Sec. 548.4045. BOND REQUIRED FOR CERTAIN INSPECTION
1-30 STATIONS. (a) This section applies only to an inspection station
1-31 that:

1-32 (1) is located in a county in which the conservation
1-33 commission has established a motor vehicle emissions inspection and
1-34 maintenance program under Subchapter F; and

1-35 (2) has been convicted of a violation of this chapter
1-36 relating to an emissions inspection.

1-37 (b) An application for certification as an inspection
1-38 station must be accompanied by a surety bond in the amount of
1-39 \$5,000, payable to this state and conditioned on the future
1-40 compliance with this chapter and rules adopted by the department or
1-41 the conservation commission under this chapter.

1-42 (c) The attorney general or the district or county attorney
1-43 for the county in which the inspection station is located or in
1-44 which the inspection station that employs the inspector is located
1-45 may bring suit in the name of this state to recover on the bond.

1-46 SECTION 3. Section 548.506, Transportation Code, is amended
1-47 to read as follows:

1-48 Sec. 548.506. FEE FOR CERTIFICATION AS INSPECTOR. An
1-49 applicant for certification as an inspector must submit with the
1-50 applicant's first application a fee of \$25 [~~\$10~~] for certification
1-51 until August 31 of the even-numbered year following the date of
1-52 certification. To be certified after August 31 of that year, the
1-53 applicant must pay \$25 [~~\$10~~] as a certificate fee for each
1-54 subsequent two-year period.

1-55 SECTION 4. Section 548.507, Transportation Code, is amended
1-56 to read as follows:

1-57 Sec. 548.507. FEE FOR CERTIFICATION AS INSPECTION STATION.

1-58 (a) Except as provided by Subsection (b) or (c), after [when] an
1-59 applicant for certification as an inspection station is notified
1-60 that the application will be approved, the applicant must [shall]
1-61 pay a fee of \$100 [~~\$30~~] for certification until August 31 of the
1-62 odd-numbered year after the date of appointment. To be certified
1-63 after August 31 of that year, the applicant must pay a fee of \$100

2-1 [~~\$30~~] for certification for each subsequent two-year period.
2-2 (b) If an applicant for certification as an inspection
2-3 station has been convicted of a violation of this chapter relating
2-4 to an emissions inspection under Subchapter F, after notification
2-5 that the application will be approved, the applicant must pay a fee
2-6 of \$500 for certification until August 31 of the odd-numbered year
2-7 after the date of appointment. To be certified after August 31 of
2-8 that year, the applicant must pay a fee of \$100 for certification
2-9 for each subsequent two-year period.

2-10 (c) If an applicant for certification as an inspection
2-11 station has been convicted of two or more violations of this chapter
2-12 relating to an emissions inspection under Subchapter F, after
2-13 notification that the application will be approved, the applicant
2-14 must pay a fee of \$1,500 for certification until August 31 of the
2-15 odd-numbered year after the date of appointment. To be certified
2-16 after August 31 of that year, the applicant must pay a fee of \$100
2-17 for certification for each subsequent two-year period.

2-18 SECTION 5. Subchapter I, Chapter 548, Transportation Code,
2-19 is amended by adding Section 548.6015 to read as follows:

2-20 Sec. 548.6015. CIVIL PENALTIES. (a) An inspection station
2-21 that violates a provision of this chapter relating to an emissions
2-22 inspection under Subchapter F is liable for a civil penalty of not
2-23 less than \$250 or more than \$500 for each violation. The district
2-24 or county attorney for the county in which the inspection station is
2-25 located or the attorney general may bring suit in the name of this
2-26 state to collect the penalty.

2-27 (b) An inspector who violates a provision of this chapter
2-28 relating to an emissions inspection under Subchapter F is liable
2-29 for a civil penalty of not less than \$50 or more than \$150 for each
2-30 violation. The district or county attorney for the county in which
2-31 the inspection station that employs the inspector is located or the
2-32 attorney general may bring suit in the name of this state to collect
2-33 the penalty.

2-34 SECTION 6. Subchapter I, Chapter 548, Transportation Code,
2-35 is amended by adding Sections 548.6035 and 548.6036 to read as
2-36 follows:

2-37 Sec. 548.6035. FRAUDULENT EMISSIONS INSPECTION OF MOTOR
2-38 VEHICLE. (a) A person commits an offense if, in connection with a
2-39 required emissions inspection of a motor vehicle, the person
2-40 knowingly:

2-41 (1) places or causes to be placed on a motor vehicle an
2-42 inspection certificate, if:

2-43 (A) the vehicle does not meet the emissions
2-44 requirements established by the department; or

2-45 (B) the person has not inspected the vehicle;

2-46 (2) manipulates an emissions test result;

2-47 (3) uses or causes to be used emissions data from
2-48 another motor vehicle as a substitute for the motor vehicle being
2-49 inspected; or

2-50 (4) bypasses or circumvents a fuel cap test.

2-51 (b) A first offense under Subsections (a)(1)-(3) is a Class
2-52 B misdemeanor.

2-53 (c) Except as provided by Subsection (d), a second or
2-54 subsequent offense under Subsections (a)(1)-(3) is a Class A
2-55 misdemeanor.

2-56 (d) If it is found on trial of an offense under Subsections
2-57 (a)(1)-(3) that the person committing the offense acted with the
2-58 intent to defraud or harm another person, the offense is a state
2-59 jail felony.

2-60 (e) An offense under Subsection (a)(4) is a Class C
2-61 misdemeanor.

2-62 (f) It is a defense to prosecution under Subsection (a)(4)
2-63 that the analyzer used by the person developed a functional problem
2-64 during the emissions inspection of the fuel cap that prevented the
2-65 person from properly conducting the fuel cap test portion of the
2-66 emissions inspection.

2-67 Sec. 548.6036. ACTIONS OF EMPLOYEE. (a) Except as
2-68 provided by Subsection (b), an inspection station is not subject to
2-69 prosecution under this subchapter for an act of an employee of the

3-1 inspection station if the inspection station requires the employee
3-2 to sign a written agreement to abide by the provisions of:

3-3 (1) this chapter;

3-4 (2) Chapter 382, Health and Safety Code; and

3-5 (3) all rules adopted under those chapters.

3-6 (b) An inspection station is subject to prosecution under
3-7 this subchapter for an act of an employee of the inspection station
3-8 if the inspection station:

3-9 (1) has received written notification from the
3-10 department or another agency that the employee has committed an
3-11 offense under this chapter; and

3-12 (2) continues to allow the employee to perform
3-13 inspections under this chapter.

3-14 SECTION 7. (a) The change in law made by this Act to
3-15 Section 548.3065, Transportation Code, applies only to a violation
3-16 or an offense committed on or after the effective date of this Act.
3-17 A violation or an offense committed before the effective date of
3-18 this Act is governed by the law in effect when the violation or
3-19 offense was committed, and the former law is continued in effect for
3-20 that purpose.

3-21 (b) The changes in law made by Section 548.4045,
3-22 Transportation Code, as added by this Act, and Sections 548.506 and
3-23 548.507, Transportation Code, as amended by this Act, in connection
3-24 with an application for certification as a vehicle inspection
3-25 station or a vehicle inspector apply only to an application for
3-26 certification that is filed on or after the effective date of this
3-27 Act. An application for certification as a vehicle inspection
3-28 station or a vehicle inspector that is filed before the effective
3-29 date of this Act is governed by the law in effect when the
3-30 application was filed, and the former law is continued in effect for
3-31 that purpose.

3-32 SECTION 8. This Act takes effect September 1, 2011.

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