

SB 512 - 2023 Oregon Legislative Session Joint Committee on Transportation

Thank you for providing this opportunity to comment on SB 512. My name is Alex Stanisel from PDX Motors LLC in SE Portland. We are members of the DEQ Too Business Alliance and one of over 330 auto-related businesses that test vehicle emissions on behalf of, and under contract with, the Oregon DEQ. My dealership uses a DEQ-approved telematics device to meet DEQ's requirement that vehicles must pass an emissions test at the time of sale. After we perform these self-tests, then we use [DEQToo™ online](#) to pay for and download DEQ Clean Air Certificates so our customers can legally register their newly purchased vehicles inside of DEQ's boundaries. This program is even being used by dealers outside of DEQ's boundaries such as dealers in Eugene, Grants Pass, Klamath Falls, Dallas, Lafayette, Newberg and Salem.

Benefits of the DEQ Too Program

Besides reducing our time, costs and the risks associated with shuttling our inventory to and from DEQ test stations, the program has other significant benefits. DEQ's innovative test method reduces vehicle miles traveled (VMT) which curtails traffic congestion and personifies the States' Every Mile Counts multi-agency approach to reducing greenhouse gas emissions. Some motorists even choose to continuously use a telematics device to self-test their emissions from wherever they are *and* participate in the OReGO pay-per-mile system; serving both ODOT's and DEQ's objectives of preserving and improving Oregon roads and air quality.

Benefits of SB 512

ORS 468A.400 requires the agency to establish fees "based upon the cost of administering this program". DEQ does indeed vary their fees and their lowest fee is for a test method (self-testing fleets) that does not use DEQ stations, doesn't use their staff or their equipment. Likewise, the DEQ Too test method does not use DEQ stations, staff or equipment. The problem is the agency has never similarly lowered its DEQ Too fee and instead charges the exact same fee they charge at their testing stations. As a result, my DEQ Too self-testing auto dealership is forced to pay DEQ 500% more than a non-DEQ Too self-testing fleet (\$25 compared to \$5). SB 512 would not only correct this massive inequity, but it would incentivize more dealerships like mine to use the program and thereby further reduce air pollution, VMT and traffic congestion.

Similar Entities use Self-Testing in both the Fleet Program and the DEQ Too Dealership Program

DEQ supplied a public records request (2/3/23) for their self-testing fleet program. It's clear from the list of fleets they supplied, there are both for-profit and nonprofit entities whom participate in both of these programs. For example, the non-profits Tri-Met and the U.S. Postal Service and for profits UPS and Ziply Fiber participate in the self-testing fleet program. Similarly, the non-profits OHSU and the Edwards Center (for adults with developmental disabilities) and for profits Comcast and CarMax participate in the DEQ Too program. Electrical, HVAC and landscape contractors are also participating in either program. And public utilities like PGE are enrolled in the self-testing fleet program while NW Natural Gas is enrolled in the DEQ Too program.

DEQ's Past Financial Claims

The agency has claimed that they've needed to keep charging DEQ Too self-testing dealerships a higher certificate fee like the stations because of the major expense associated with DEQ Too's computer and website system. The fact is that launching DEQ Too was funded by major surplus revenue that the agency had built up over the years. The multi-biennia surpluses were so high that the legislature actually lowered DEQ's fee for two years and swept the agency's ending balance several times – all to the tune of about \$7.5 million. And maintaining the DEQ Too computer and website system is no greater costs than maintaining DEQ's computer and website system for the rest of their station testing. So the true comparison of per-test costs is that the DEQ station testing method is far more expensive than the self-testing dealerships or self-testing fleets methods because the agency must pay for station staff, facilities and equipment. Whereas DEQ is not paying for our staff, facilities or equipment. In fact, there are parts of the self-testing fleet program that cost the agency *more* than DEQ Too testing. DEQ must print and mail certificates and must train each individual self-testing fleet personnel in-person, but DEQ doesn't have those costs for DEQ Too.

Further, the agency claimed in a [video recorded commission hearing](#), that DEQ Too is a financial strain because agency staff are still involved in every step of each test. That would mean that DEQ contracted out its work to our dealerships only to keep performing the very work they contracted out; which is *not* the case and conflicts with a recent agency budget document that references DEQ Too as a “cost-saving innovation”. When asked to reveal its financial costs of DEQ Too relative to its revenue – the agency has said that it does not track detailed financials of the DEQ Too program; which begs the question how, and why, the agency claimed it was causing a budget deficit in the first place. DEQ Too is a financial gain, not a strain on the department. Even when asked to provide their costs for its self-testing fleet method, the agency says it does not track detailed financials for that; which begs how it even decided to charge 500% less for that method compared to its station or DEQ Too test methods.

DEQ Claims it will Solve the Fee Inequity via Rulemaking

DEQ has promised this over and over, but to date has refused to address it. Through testimony in a 2021 legislative public hearing, around 40 DEQ Too businesses encouraged DEQ to correct this inequity when the agency embarked on its first fee adjustment in over twenty years. But following the hearing, the agency’s fee rulemaking ignored our encouragement and they continue to assess our DEQ Too self-testing auto dealership the same as the increased maximum fee they charge in their test stations; \$25. And DEQ continues to assess self-testing fleets only \$5. Again, this was DEQ’s first fee adjustment in over 2 decades and they did not seize the opportunity to fix a 500% inequity. And it’s not like DEQ Too is a new program or a pilot that the agency is still trying to figure out its expenses and revenue. It has been operating since 2016 and like the self-testing fleet program, our self-testing dealership costs are much lower on the agency. Our businesses have even asked the agency to simply begin charging DEQ Too testing less than the maximum fee - *which does not take any rulemaking because the fee would not exceed the maximum* – but DEQ will not budge.

DEQ continues to assesses a fee *surcharge* on our auto dealerships when the agency incurs increased costs due to traveling to our dealership lots to test on-location. Yet when we self-test our vehicles, the agency does not provide us a fee *discount* when its costs are less due to our performing work on behalf of DEQ. The agency is literally having its cake and eating it too! Dealerships are not supporting this bill to help our expenses because we are able to pass along whatever amount the DEQ fee is to our customers. We are supporting SB 512 on behalf of our customers’ pocket books who are unaware of this fee inequity. With the cost of everything else going up these days, this seems like an expense that could be reduced for vehicle owners. And a lower fee should not impact the agency that much considering how small of portion DEQ Too testing is relative to the agency’s overall test volume occurring in its stations. In fact, the DEQ Too portion is about equal to the annual test volume conducted in Medford’s single DEQ test station; which is a good comparison because Medford’s test fee is lower than the Portland’s test fee. If the agency has already found a way to afford a lower fee for such a small portion of tests, then it seems like the agency can do the same for a similar small portion of DEQ Too tests.

We are seeking the DEQ Too fee to be equal to whatever fee the agency charges whenever testing doesn’t occur at the DEQ stations and isn’t using department equipment or personnel. DEQ may end up implementing the bill in such a way that ultimately charges a higher fee than they currently assess in their self-testing fleet program. To be clear, this bill is not about getting the DEQ Too certificate fee down to \$5 or a certain dollar amount. This is all about fee equity. Whatever the DEQ Too fee amount is, it should not be greater than the self-testing fleet program. And due to less expenses on the agency, these remote, self-testing type of inspections should be assessed a lower fee than what’s charged in department stations.

Thank you.