Q1. **I am a repair shop registered with the Bureau of Automotive Repair (BAR) and currently have non-compliant brake pads in my inventory. Can I keep this stock and sell and install it for customers or is there a specific timeline that must be adhered to?**

A1. The California Brake Pad law has a sell off provision under California Health and Safety Code (HSC) section 25250.51(b) for the restrictions starting on January 1, 2014. The actual text from HSC 25250.51 is provided below for reference:

“HSC 25250.51. (a) On and after January 1, 2014, any motor vehicle brake friction materials containing any of the following constituents in an amount that exceeds the following concentrations shall not be sold in this state:

(1) Cadmium and its compounds: 0.01 percent by weight.

(2) Chromium (VI)-salts: 0.1 percent by weight.

(3) Lead and its compounds: 0.1 percent by weight.

(4) Mercury and its compounds: 0.1 percent by weight.

(5) Asbestiform fibers: 0.1 percent by weight.

(b) Motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials may continue to sell or offer for sale brake friction materials not certified as compliant with subdivision (a) solely for the purpose of depletion of inventories until December 31, 2023.”

Legislation passed in 2013 (AB 501, effective January 1, 2014) added subdivision (c) to HSC section 25250.51 as follows:

“(c) Notwithstanding subdivision (b), motor vehicle dealers may continue to sell or offer for sale brake friction material not certified as compliant with subdivision (a) if the brake friction material was installed on a vehicle before the vehicle was acquired by the dealer.”

HSC section 25250.51 therefore allows any “motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials” to continue to sell any existing inventory as of January 1, 2014 without meeting the constituent restrictions or the marking criteria. However, any inventory produced or acquired by motor vehicle manufacturers and distributors, wholesalers, or retailers of replacement brake friction materials after the January 1, 2014 date must meet the above restrictions for content. Compliant brake pads will also have marked proof of certification on the brake pad by the manufacturer. (See HSC section 25250.60.)

Q2. **Are manufacturers and/or distributors required to identify on the packaging (box) that brake pads are “California Compliant”? If not, how do shops easily ascertain and verify that pads are compliant without removing and destroying packaging?**

A2. The California brake pad law only requires the manufacturer to certify their formulation with the testing certification agency (in this case, [NSF International](http://www.nsf.org/services/by-industry/automotive/friction-material/friction-material-registration)) and have the mark of proof (edge code) on the brake pad. (California Health and Safety Code section 25250.60.) The State of Washington requires a packaging mark to be on products sold in their state starting January 1, 2015 [[Washington Administrative Code 173-901-090(2)](http://apps.leg.wa.gov/wac/default.aspx?cite=173-901-090)]. To be compliant in both states one must meet the legal requirements of both states.

Q3. **What are the DTSC requirements for placement of the “mark of proof” by brake pad manufacturer? Does the "A" marking (or other markings) have to be located on a specific area of the brake pad?**

A3. California, the State of Washington, and the Society of Automotive Engineers (SAE) have worked together to develop a standard for the “mark of proof” that can be used in both states. [SAE Standard J866:2012](http://webstore.ansi.org/RecordDetail.aspx?sku=SAE+J+866-2012+(SAE+J866-2012)) describes the format of the “mark of proof” and meets California Health & Safety Code section 25250.60(j) in regards to showing “a consistent date format, designation, and labeling to facilitate acceptance in all 50 states and United States territories for purposes of demonstrating compliance with all applicable requirements.” Examples of acceptable placement of the “mark of proof” on a brake pad are shown in the State of Washington [Guidance for Marking Brake Friction Material](https://fortress.wa.gov/ecy/publications/publications/1304011.pdf).

Q4. **If the distributor states that the brake pads are compliant, do I have a duty to verify the claim or is it sufficient to have the distributor simply state they are compliant?**

A4. California Health and Safety Code sections 25250.50 et.seq. prohibits all sale of noncompliant brake friction materials. Individual businesses must use due diligence in order to show that brake friction materials were obtained in good faith. It is recommended that businesses request a distributor or supplier to provide the business with the mark of proof and confirm that the mark is listed on the [certified Friction Material Program](http://info.nsf.org/Certified/autorp/listings.asp?standard=SAEJ2975) maintained by NSF International.

Q5. **As a repair shop that sells and installs brake pads, what are my legal responsibilities under the law?**

A5. Any industry dealing with the sale of brake friction materials must be aware and comply with the upcoming restrictions which begin on January 1, 2014 as outlined under California Health and Safety Code (HSC) section 25250.51,. Other restrictions will go into effect on January 1, 2021 (HSC section 25250.52) and January 1, 2025 (HSC section 25250.53). HSC section 25250.51 prohibits the sale of noncompliant brake pads. Retailers must not sell brake friction materials that are not compliant with HSC sections 25250.50 et.seq..

We recommend maintaining records on all compliance activities including but not limited to:

(1) the brake pads purchased and in your inventory before January 1, 2014 to show the brake pads are eligible for the sell-off period that ends on December 31, 2023 (see generally HSC section 25250.51), and

(2) the brake pads that meet an exemption category listed in HSC section 25250.55 to document your decision.

We also recommend that you become familiar with the mark of proof for compliant material as described in the [Society of Automotive Engineers (SAE) Standard J866:2012](http://webstore.ansi.org/RecordDetail.aspx?sku=SAE+J+866-2012+(SAE+J866-2012)).

Q6. **Does this law only apply to passenger vehicles? If not, what are the specific applications?**

A6. California Health and Safety Code (HSC) sections 25250.50 et.seq. includes not only passenger vehicles but all “vehicles” under the California Vehicle Code section 670. For example, this law applies to trailers, tractor trailers and boat trailers, which are also captured by the definition of “vehicle” in the California Vehicle Code and some “off highway” vehicles.

HSC section 25250.50(f) states that “Motor vehicle” and “vehicle” have the same meaning as the definition of “Vehicle” in Section 670 of the Vehicle Code [HSC section 5250.50(f)]. Further, California Vehicle Code section 670 defines "vehicle" as “a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.” (California Vehicle Code section 670 emphasis added.) What types of vehicles may or may not be drawn upon a highway are governed by the California Vehicle Code.

Specific exemptions have been given to the following motor vehicle classes under HSC section 25250.55 which include:

(a) Military tactical support vehicles.

(b) Vehicles employing internal closed oil immersed brakes, or a similar brake system that is fully contained and emits no copper, other debris, or fluids under normal operating conditions.

(c) Brakes designed for the primary purpose of holding the vehicle stationary and not designed to be used while the vehicle is in motion.

(d) Motorcycles.

(e) Motor vehicles subject to voluntary or mandatory recalls of brake friction materials or systems due to safety concerns. This exemption shall expire upon the lifting of the recall and provision of new brake friction materials that comply with this article.

(f) Motor vehicles manufactured by small volume manufacturers, as defined in Section 1900 of Title 13 of the California Code of Regulations.

(g) Vehicles manufactured prior to January 1, 2021, and brake friction materials for use on vehicles manufactured prior to January 1, 2021, from the requirements of Section 25250.52.

(h) Vehicles manufactured prior to January 1, 2025, and brake friction materials for use on vehicles manufactured prior to January 1, 2025, from the requirements of Section 25250.53.

(i) Vehicles for which an extension from the requirements of Section 25250.53 was approved pursuant to Section 25250.54. (Please note: This exemption will not be available until after January 1, 2019. The extension referred to is only for brake friction material formulations that need additional time in order to meet the restrictions that go into effect on January 1, 2025).

Q7. **Does the law apply to parking brake/emergency brake applications?**

A7. No. Under the California Health and Safety Code section 25250.55(c), “brakes designed for the primary purpose of holding the vehicle stationary and not designed to be used while the vehicle is in motion” such as parking brakes are exempt.

Q8. **What are all the exemptions under this law? Are there specific exemptions for heavy duty equipment or does this law apply to all vehicles?**

A8. First, California Health and Safety Code (HSC) sections 25250.50 et.seq. only applies to brake friction materials for “vehicles” as defined in the California Vehicle Code. There are specific exemptions listed in HSC section 25250.55. There are no specific exemptions for “heavy duty” vehicles under the California law. However, some off-highway vehicles may not be included under the California Law.

HSC section 25250.50(f) states that “Motor vehicle” and “vehicle” have the same meaning as the definition of “Vehicle” in Section 670 of the Vehicle Code [HSC section 25250.50(f)]. Further, California Vehicle Code section 670 defines "vehicle" as “a device by which any person or property ***may be propelled, moved, or drawn upon a highway***, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.” (California Vehicle Code section 670 emphasis added). What types of vehicles may or may not be drawn upon a highway are governed by the California Vehicle Code.

Q9. **If a customer purchases and brings his own non-complaint brake pads, can we install them without violating the law and incurring penalties?**

A9. California Health and Safety Code sections 25250.50 et.seq. only prohibits sale of non-compliant brake pads, not installation.

Q10. **Do I have to document on my invoice to a customer or anywhere else on my paperwork that the brake pads being installed are compliant? What are the shop requirements for proper documentation?**

A10. You are not required to document on the customer’s invoice that the brake pads being installed are compliant with the California Health and Safety Code sections 25250.50 et.seq. . The level of documentation an individual retailer requires is up to the discretion of that retailer.

Q11. **Will DTSC enforce the law or will other agencies such as the Bureau of Automotive Repair (BAR) able to enforce law?**

A11. Yes, the DTSC is the agency authorized to enforce Article 13.5, Chapter 6.5, Division 20, Health and Safety Code [California Health and Safety Code (HSC) section 25250.62(b)]. While DTSC is interested in maximizing its resources through cooperation with other regulatory agencies such as the Bureau of Automotive Repair, the statute does not provide a mechanism for the DTSC to “authorize” other agencies to enforce these statutes. Under existing authority granted by HSC section 25180, a local health officer or local public officers designated by the DTSC director may enforce the standards in Chapter 6.5, Division 20, Health and Safety Code [HSC section 25180(a)(1)].

Q12. **What are the penalties for repair shops installing non-compliant brake pads? What does a repair shop need to demonstrate and show the DTSC that they installed complaint brake pads?**

A12. The law provides for civil penalties of up to $10,000/violation [California Health and Safety Code section 25250.62(a)]. In assessing the amount of the penalty, DTSC shall consider the circumstances of the violation, including but not limited to, the amount of noncompliant brake material offered for sale, whether previous violations have occurred, as due diligence in determining that the brake friction materials offered for sale were compliant and whether the violation merits the imposition of a fine.

Q13. **How will DTSC go about enforcing the law with repair shops? Will an audit of the repair shop’s paper work be sufficient for compliance? Will DTSC inspect vehicles to examine actual brake pads installed? If so, does DTSC have the facility and expertise to remove and inspect brakes for compliance?**

A13. DTSC will be focusing on compliance, education and outreach in 2014. DTSC will not comment upon potential enforcement strategies and/or methods.

1. **Will DTSC accept consumer complaints directly? How will that process work?**
2. Consumers will be able to submit complaints by either calling the Department of Toxic Substances Control (DTSC) Waste Alert Hotline at (800) 698-6942 or submitting a complaint online using the [Cal/EPA Environmental Complaint Form](http://www.dtsc.ca.gov/database/CalEPA_Complaint/).

The DTSC also has documents that give an overview of the process used by DTSC for enforcement. DTSC’s [Enforcement Response Policy](http://www.dtsc.ca.gov/LawsRegsPolicies/Policies/HazardousWaste/upload/DTSC-OP-0006_Enf_Response_Policy.pdf) describes the violation classification system and summarizes the enforcement options that the DTSC may pursue for violations. A copy of [DTSC’s policy and procedures for posting enforcement response documents](http://www.dtsc.ca.gov/LawsRegsPolicies/Policies/HazardousWaste/upload/HWMP_POL_EO-06-002.pdf) to the DTSC website is also available. Additional information is also available on the [DTSC Compliance and Enforcement Web page](http://www.dtsc.ca.gov/HazardousWaste/Compliance_and_Enforcement.cfm).