

By the Committee on Transportation

306-527A-98

1                                   A bill to be entitled  
 2           An act relating to motor vehicle emissions  
 3           inspections; amending s. 325.202, F.S.;  
 4           adopting current Federal Clean Air Act  
 5           regulations; amending s. 325.203, F.S.;  
 6           requiring the minimum testing necessary for  
 7           compliance with the Federal Clean Air Act;  
 8           providing options for types of emissions tests,  
 9           frequency of tests, and certain vehicles to be  
 10          exempted from testing; amending s. 325.207,  
 11          F.S.; allowing the Department of Highway Safety  
 12          and Motor Vehicles the alternative to contract  
 13          with one or more testing companies within a  
 14          zone; allowing the department the alternative  
 15          to contract with a testing company in more than  
 16          one zone; amending s. 325.214, F.S.; allowing  
 17          the department to include the sum of the cost  
 18          of inspection in the request for proposal;  
 19          providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23           Section 1. Subsection (5) of section 375.202, Florida  
 24 Statutes, is amended to read:

25           325.202 Definitions.--As used in this act, the term:  
 26           (5) "Federal act" means the federal Clean Air Act, as  
 27 amended, and regulations issued by the United States  
 28 Environmental Protection Agency under that act as they exist  
 29 on October 1, 1997.

30           Section 2. Section 325.203, Florida Statutes, is  
 31 amended to read:

1           325.203 Motor vehicles inspection program ~~subject to~~  
2 ~~annual inspection; exemptions.~~--

3           (1) The Department of Highway Safety and Motor  
4 Vehicles shall require the minimum motor vehicle inspection  
5 program for testing emissions as necessary so that each county  
6 will meet and maintain the National Air Quality Standards set  
7 by the United States Environmental Protection Agency under the  
8 Clean Air Act. Where an inspection program is required, the  
9 program must:

10           (a) Be conducted biennially unless annual inspections  
11 are necessary;

12           (b) Exempt as many vehicle models up to 6 years old as  
13 possible and meet Environmental Protection Agency  
14 requirements; and

15           (c) Use the basic test for hydrocarbon emissions and  
16 carbon monoxide emissions or the Accelerated Simulation Mode  
17 test only if a test for nitrous oxides is necessary to  
18 maintain compliance.

19           (2)(1) Each motor vehicle that which is required to  
20 obtain an inspection certificate must shall obtain one or a  
21 waiver in the year the inspection is required annually within  
22 180 days prior to the expiration of the motor vehicle  
23 registration period, except that any vehicle the registration  
24 period for which is established under s. 320.055(4) or (5) and  
25 which is required to obtain an inspection certificate must  
26 ~~shall~~ obtain one or a waiver in the year the inspection is  
27 required annually prior to the expiration of the motor vehicle  
28 registration period.

29           (3)(2) Unless exempt pursuant to subsection(4)(3)or  
30 subsection(5)(4), each motor vehicle that which is owned or  
31 leased by a person who resides in a county designated as part

1 of the program area or that ~~which~~ is primarily kept in a  
2 county designated as part of the program area is subject to  
3 inspection. A person's county of residence is determined by  
4 the address provided on the registration certificate. A motor  
5 vehicle owner who intentionally provides an incorrect address  
6 at the time of registration with the intention of avoiding the  
7 inspection requirements of this chapter is guilty of a  
8 misdemeanor of the first degree, punishable as provided in s.  
9 ~~ss.~~ 775.082 ~~or s.~~ and 775.083.

10 (4)~~(3)~~ The department may provide a temporary  
11 exemption, not to exceed one test period as required in the  
12 program area ~~1 year~~, for any vehicle unavailable for  
13 inspection due to the motor vehicle's absence from the program  
14 area or because it is inoperative, or the owner's or lessee's  
15 absence from the program area or incapacity, during the  
16 180-day period immediately prior to the registration  
17 expiration date in the year inspection is required. The owner  
18 or lessee of the motor vehicle may request a letter of  
19 temporary exemption on a form to be provided by the  
20 department. The owner or lessee shall identify the motor  
21 vehicle involved, provide the reason for requesting the letter  
22 of temporary exemption, certify that the vehicle will not be  
23 available for emissions inspection during the 180-day period  
24 immediately prior to the registration expiration date, and  
25 state the date upon which the motor vehicle will again be  
26 operated within the program area. Upon approval by the  
27 department, a letter of temporary exemption must be issued to  
28 the motor vehicle owner or lessee, and the motor vehicle  
29 registration may be renewed. As a condition of temporary  
30 exemption, the motor vehicle must be inspected within 30 days  
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1 after the date upon which it becomes operational within a  
2 program area.

3 (5)~~(4)~~ The following motor vehicles are not subject to  
4 inspection:

5 (a) Motor vehicles that have a registered vehicle  
6 weight greater than 10,000 pounds.

7 (b) Motor vehicles that ~~which~~ are designated as model  
8 years 1974 or older.

9 (c) Golf carts, as defined in s. 320.01.

10 (d) Farm vehicles, as defined in s. 320.51.

11 (e) Motor vehicles on which are displayed a dealer  
12 license plate authorized in s. 320.13(1)(a).

13 (f) Motorcycles, as defined in s. 320.01.

14 (g) Mopeds, as defined in s. 320.01.

15 (h) Propane-powered vehicles.

16 (i) Natural-gas-powered vehicles.

17 (j) Any vehicle that ~~which~~ is exempted by rule of the  
18 Department of Highway Safety and Motor Vehicles upon  
19 determination by the Department of Environmental Protection  
20 that the vehicle does not significantly contribute to air  
21 pollution.

22 ~~(k) New motor vehicles, as defined in s. 319.001(4).  
23 Such vehicles are exempt from the inspection requirements of  
24 this act at the time of the first registration by the original  
25 owner and, thereafter, are subject to the inspection  
26 requirements of this act. Beginning May 1, 2000, such vehicles  
27 are exempt from those inspection requirements for a period of  
28 2 years from the date of purchase.~~

29 ~~(l) New motor vehicles as defined in s. 319.001(4)  
30 which are utilized as short-term rental vehicles and licensed  
31 under s. 320.08(6)(a). Such vehicles are exempt from the~~

1 ~~inspection requirements of this act at the time of the first~~  
2 ~~registration. Said vehicles are also exempt from the~~  
3 ~~inspection requirements of this act at the time of the first~~  
4 ~~registration renewal by the original owner, provided this~~  
5 ~~renewal occurs prior to the expiration of 12 months from the~~  
6 ~~date of first registration of the motor vehicle. Beginning May~~  
7 ~~1, 2000, such vehicles are exempt from those inspection~~  
8 ~~requirements for a period of 2 years from the date of~~  
9 ~~purchase.~~

10 (k)~~(m)~~ Recreational vehicles as defined in s.  
11 320.08(9).

12 (l)~~(n)~~ Electric vehicles.

13 (6)~~(5)~~ Unless exempt pursuant to subsection(4)~~(3)~~ or  
14 subsection(5)~~(4)~~, each motor vehicle that is owned or leased  
15 by federal, state, or local government and is primarily kept  
16 in a program area is subject to inspection. Before February 1  
17 of each year, each federal, state, or local government agency  
18 that owns or leases motor vehicles that are subject to  
19 inspection must submit to the department in the prescribed  
20 format a list of all motor vehicles that are subject to  
21 inspection. The list must indicate that each vehicle has  
22 passed inspection or received a waiver or exemption.

23 (7)~~(6)~~ Each motor vehicle that is subject to  
24 inspection may not be registered pursuant to chapter 320  
25 unless the motor vehicle has a valid inspection certificate,  
26 waiver, or exemption.

27 (8)~~(7)~~ The owner of each motor vehicle must obtain an  
28 inspection certificate within 180 days before the expiration  
29 of the motor vehicle registration period for any year in which  
30 inspection is required. Upon the receipt of an inspection  
31 certificate, waiver, or exemption and payment of the

1 appropriate inspection fees, the vehicle owner may complete  
2 registration of the motor vehicle as prescribed in chapter  
3 320.

4 (9)~~(8)~~ A motor vehicle dealer, motor vehicle broker as  
5 defined in s. 320.27, mobile home dealer as defined in s.  
6 320.77, recreational vehicle dealer as defined in s. 320.771,  
7 governmental agency subject to subsection(6)~~(5)~~, or person  
8 located in a program area may not sell at retail any motor  
9 vehicle that is subject to inspection under this act and that  
10 is to be registered in a program area unless the motor vehicle  
11 has received a valid inspection certificate within 180 days  
12 before sale or received a valid dealer certificate within 12  
13 months before sale. If a motor vehicle is purchased outside  
14 the program area and is required to be registered in the  
15 program area, the purchaser must meet the inspection  
16 requirements of this act before such registration.

17 Section 3. Section 325.207, Florida Statutes, is  
18 amended to read:

19 325.207 Inspection stations; department contracts;  
20 inspection requirements; recordkeeping.--

21 (1) The department shall direct the implementation,  
22 operation, and regulation of emissions inspections required  
23 under this act. The department shall establish the  
24 requirements for inspection stations, enter into negotiated  
25 multiyear contracts with one or more private contractors for  
26 the operation of inspection stations with a state option for  
27 renewal, and supervise the performance of such contractors.

28 (2) The department must issue a request for proposals  
29 during 1998 to obtain proposals on a range of options for the  
30 minimum motor vehicle inspection program for testing emissions  
31 as are necessary for each county to meet and maintain the

1 National Air Quality Standards set by the United States  
2 Environmental Protection Agency under the Clean Air Act. The  
3 proposals for the testing program must be limited to:  
4       (a) A test biennially or annually;  
5       (b) A test exemption for vehicle models up to 6 years  
6 old; and  
7       (c) The basic test for hydrocarbon emissions and  
8 carbon monoxide emissions or the Accelerated Simulation Mode  
9 test for nitrous oxide emissions if necessary for a county to  
10 maintain compliance.  
11       ~~(3)(2)~~ The Governor and Cabinet as head of the  
12 department shall approve any request for proposals by the  
13 department before the request for proposals is made available  
14 for bidding purposes. In addition, the Governor and Cabinet  
15 must approve the award of any contract to any contractor.  
16       ~~(4)(3)~~ The department shall incorporate, as a  
17 provision of each contract, standards relating to maximum  
18 driving time to inspection stations and maximum waiting time  
19 at inspection stations and shall have the authority to impose  
20 penalties for failure of the contractor to meet such  
21 standards.  
22       ~~(5)(4)~~ Such contracts are subject to competitive  
23 procurement requirements and shall provide for the design,  
24 construction, equipment, maintenance, and operation of  
25 inspection stations in such numbers and locations as required  
26 to provide motor vehicle owners with reasonably convenient  
27 access to inspection facilities for the purpose of compliance  
28 with this act.  
29       ~~(6)(5)~~ To avoid conflicts of interest and ensure  
30 impartial inspections, the department may not enter into a  
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1 contract to conduct emissions inspections with any contractor  
2 who:

3 (a) Engages in the business of manufacturing or  
4 selling motor vehicles in this state;

5 (b) Offers to the general public, for profit, motor  
6 vehicle maintenance or repair services in this state, except  
7 that a contractor may maintain or repair motor vehicles owned  
8 or leased by the contractor; or

9 (c) Lacks the capability, resources, or technical and  
10 management skills to adequately construct, equip, operate, and  
11 maintain a sufficient number of official emissions inspection  
12 stations to meet the demand for the inspection of every motor  
13 vehicle which is required to be inspected under the terms of  
14 the contract.

15 (7)~~(6)~~ By its selection process for contractors, the  
16 department shall seek to obtain the highest quality service  
17 for the lowest cost. Accordingly, the department shall give  
18 balanced consideration during its selection process to the  
19 following:

20 (a) The public convenience of the inspection stations,  
21 including a calculation of lowest average driving time to an  
22 inspection facility applicable to 90 percent of motor vehicles  
23 within each contract zone;

24 (b) The inspection fee bid proposed by a contractor;

25 (c) The degree of technological content of the  
26 proposal, including test-accuracy specifications, and quality  
27 of testing services;

28 (d) The experience of the contractor, and the  
29 probability of successful performance of the contract;

30 (e) The financial stability of the contractor; and  
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1 (f) The economic impact of the contract to the state  
2 during construction and operation of the inspection stations.

3 (8)~~(7)~~ All persons employed by a contractor are deemed  
4 to be employees of the contractor and not of the state. An  
5 officer, director, or employee of a contractor may not be an  
6 employee of the state.

7 (9)~~(8)~~ Any contract authorized under this section  
8 shall contain:

9 (a) A contract term of not less than 5 years of actual  
10 test operations.

11 (b) A clause stating that nothing in the contract  
12 requires the state to purchase any asset or assume any  
13 liability if such contract is not renewed.

14 (c) Minimum requirements for adequate staff,  
15 equipment, management, and operating hours which may include  
16 evening or weekend hours or both.

17 (d) Provisions for surveillance by the department of  
18 the contractor to ensure compliance with emissions test  
19 standards and applicable procedures, rules, regulations, and  
20 laws.

21 (e) Provision for the state, upon default of the  
22 contractor, to terminate the contract with the contractor and  
23 assume operation of the motor vehicle emissions inspection  
24 station.

25 (f) Provision for the state, upon termination of the  
26 term of the contract or upon assumption of the operation of  
27 the program pursuant to paragraph (e), to have transferred or  
28 assigned to it, for reasonable compensation, any interest in  
29 land, buildings, improvements, services, and equipment used by  
30 the contractor in the operation of an inspection station.

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1 (g) Provision for the state, upon termination of the  
2 term of the contract or upon assumption of the operation of  
3 the program, to have transferred and assigned to it, for  
4 reasonable compensation, any contract rights and related  
5 obligations for land, buildings, improvements, and equipment  
6 used by the contractor in the operation of the inspection  
7 station.

8 (h) A requirement that the contractor, in any  
9 agreement executed by him or her for land, buildings,  
10 improvements, and equipment used in the operation of the  
11 inspection stations, reserve the right to assign to the state  
12 any of his or her rights and obligations under such contract.

13 (i) A procedure for determining the damages payable by  
14 the state to the contractor if the Legislature abolishes the  
15 inspection program at any time prior to the conclusion of the  
16 contract term. This procedure must specify that the  
17 contractor and the department have 120 days from the effective  
18 date of the termination of the program to negotiate an amount  
19 to be paid to the contractor as reasonable compensation for  
20 its loss resulting from the termination of the contract due to  
21 the termination of the program. If the contractor and the  
22 department are not able to agree to an amount by the end of  
23 the 120-day period, the department shall determine the amount  
24 of reasonable compensation and notify the contractor in  
25 writing of its determination within 14 days of the end of the  
26 negotiation period and shall offer the contractor a point of  
27 entry to a proceeding under ss. 120.569 and 120.57 pursuant to  
28 the department's rules of procedure. This provision must  
29 specify that payment of such compensation to the contractor is  
30 subject to appropriation of funds for this purpose by the  
31 Legislature and that the department agrees in good faith to

1 request the Legislature to appropriate the funds to pay such  
2 reasonable compensation. The damages recoverable by the  
3 contractor if the Legislature abolishes the program shall be  
4 limited to the funds appropriated by the Legislature pursuant  
5 to this section.

6 (j) Any other provision, including periodic audits of  
7 inspection fees collected, deemed necessary by the department  
8 for the administration or enforcement of the emissions  
9 inspection contract.

10 (k) A provision requiring compliance with minority  
11 business enterprise procurement goals set forth in s. 287.0945  
12 in contracts for the construction of inspection stations and  
13 for document printing costs and costs associated with the  
14 maintenance, repair, reconstruction, renovation, and expansion  
15 of inspection stations. Each contractor shall submit to the  
16 department no later than March 1 of each year an affidavit  
17 certifying compliance with the provisions of this paragraph.

18 (l) A provision requiring a performance bond of \$1  
19 million, which the department may, after the second year of  
20 inspection operations under the contract, elect to waive  
21 entirely, reduce in amount, or waive in exchange for another  
22 appropriate means of security in a like or reduced amount.

23 (m) A provision requiring that the contractor  
24 determine, for each county in the program area, the  
25 availability of county facilities formerly used for the  
26 inspection of motor vehicles and that the contractor explore  
27 with appropriate county officials the feasibility of the  
28 contractor's acquisition or lease of such facilities, if any,  
29 for use as inspection stations.

30 (10)~~(9)~~ Inspection stations shall collect, maintain,  
31 and report data as the department requires. The department

1 may enter and inspect the premises and equipment and audit the  
2 records of inspection fees collected at each inspection  
3 station at all reasonable times.

4 (11)~~(10)~~ The department shall maintain records of each  
5 inspection station and investigate bona fide complaints  
6 regarding inspection stations.

7 (12)~~(11)~~ Before accepting proposals, the department  
8 shall divide the state into ~~three or more~~ contract zones as  
9 necessary. The department shall contract with ~~a private~~  
10 contractors ~~contractor for the exclusive right~~ to conduct  
11 vehicle inspections in each zone. ~~However,~~ Any contractor may  
12 bid on more than one zone, and the department may contract  
13 with one or more contractors ~~a contractor~~ to conduct vehicle  
14 inspections in each ~~more than one~~ contract zone.

15 (13)~~(12)~~ Information received in a sealed bid or  
16 proposal that would indicate the locating of proposed  
17 inspection sites, or property sought to be acquired for such  
18 sites, is exempt from the provisions of s. 119.07(1), as  
19 follows:

20 (a) For an unsuccessful bidder, from the time the bid  
21 or proposal is received, until 30 days after notice of intent  
22 to award a bid or proposal.

23 (b) For successful bidders, from the time the bid or  
24 proposal is received, until completion of purchases or leases  
25 of real property required to carry out the contract  
26 provisions.

27 (14)~~(13)~~(a) The department and the Department of  
28 Environmental Protection shall have reasonable access to all  
29 records of the contractor pertaining to the contract or duties  
30 imposed or undertaken pursuant to this chapter. Except as to  
31 information provided for in subsection (13)~~(12)~~, upon request

1 of the contractor, any records received by the department or  
2 the Department of Environmental Protection which are shown to  
3 be proprietary confidential business information shall be kept  
4 confidential and shall be exempt from s. 119.07(1).

5 (b) Proprietary confidential business information  
6 includes, and is limited to:

7 1. Trade secrets as defined in s. 812.081.

8 2. Security measures, systems, or procedures.

9 (c) Proprietary confidential business information does  
10 not include information received by the department or the  
11 Department of Environmental Protection in carrying out the  
12 duties of the department under subsection (7)~~(6)~~, except such  
13 information which, if disclosed, would reveal:

14 1. Specifications pertaining to process or design;

15 2. The identity of or information about a person or  
16 entity not engaged or proposed to be engaged in providing  
17 services in connection with the proposal or contract, and not  
18 a party to, nor the subject of, the proposal or contract;

19 3. Specific financial assets of the contractor, or  
20 contracts of the contractor other than the contract provided  
21 for in this section.

22 (d) In any administrative proceeding brought under  
23 this chapter, upon a showing by the contractor and a finding  
24 by the hearing officer that such protection is necessary, the  
25 hearing officer shall issue protective orders protecting the  
26 contractor from discovery of proprietary confidential business  
27 information. If the hearing officer determines that discovery  
28 of proprietary confidential business information is necessary  
29 to preserve justice or to protect the public interest,  
30 however, the hearing officer shall enter an order limiting  
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1 such discovery in the manner provided for in Rule 1.280 of the  
2 Florida Rules of Civil Procedure.

3 (15)~~(14)~~ Any contract entered into by the department  
4 pursuant to this section may be amended by mutual consent of  
5 the parties, by a writing executed with the same degree of  
6 formality as the original contract.

7 Section 4. Subsection (2) of section 325.214, Florida  
8 Statutes, is amended to read:

9 325.214 Motor vehicle inspection; fees; disposition of  
10 fees.--

11 (1) All moneys received by the department pursuant to  
12 this chapter, less the deductions required by s. 215.20, shall  
13 be deposited into the Highway Safety Operating Trust Fund.

14 (2) The department shall set an inspection fee to  
15 include the sum of the cost of the inspection in the request  
16 for proposal and not to exceed \$10. ~~By rule, the department~~  
17 ~~shall set a regulatory amount to be included in the fee which~~  
18 ~~is commensurate with the cost of administering and enforcing~~  
19 the inspection program. It is the intent of the Legislature  
20 that the program be self-supporting; however, if the total  
21 cost per inspection exceeds \$\_\_\_\_\_, the department may not  
22 enter into any contract prior to specific legislative approval  
23 of the cost. Notwithstanding any other provision of law to the  
24 contrary, an additional fee of \$1 shall be assessed upon the  
25 issuance of each dealer certificate, which fee shall be  
26 forwarded to the department for deposit into the Highway  
27 Safety Operating Trust Fund.

28 Section 5. This act shall take effect upon becoming a  
29 law.

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SENATE SUMMARY

Revises provisions related to motor vehicle emissions testing. Readopts the standards of the federal Clean Air Act for compliance standards purposes. Provides options for certain test types and frequency and certain exemptions. Establishes test standards. Provides that the Department of Highway Safety and Motor Vehicles may contract with more than one testing company within a zone.

Allows the department to include the cost of inspection in the request for proposal and requires specific legislative approval if the contract with the testing company requires an inspection fee that exceeds a certain amount.