

Bill No. HB 349, 2nd Eng.

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senators Klein and Hargrett moved the following substitute for amendment to amendment (943576):

Senate Amendment (with title amendment)

On page 50, between lines 20 and 21,

insert:

Section 22. Subsection (10) of section 325.202, Florida Statutes, is repealed, and present subsection (11) of that section is amended, to read:

325.202 Definitions.--As used in this act, the term: (10)(11) "Program area" means Hillsborough and Pinellas Counties as long as the Department of Highway Safety and Motor Vehicles has a vendor under state contract to operate a motor vehicle inspection program in these counties. Additionally, the term includes counties that voluntarily request inclusion under the provisions of s. 325.204. designated by the Department of Environmental Protection as air-quality nonattainment areas in accordance with this act, counties which voluntarily request inclusion pursuant to the provisions of s. 325.204, and counties previously designated

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1 ~~as nonattainment areas that are operating under a United~~
2 ~~States Environmental Protection Agency approved maintenance~~
3 ~~plan.~~

4 Section 23. Subsection (4) of section 320.055, Florida
5 Statutes, is amended to read:

6 320.055 Registration periods; renewal periods.--The
7 following registration periods and renewal periods are
8 established:

9 (4) For a vehicle subject to registration under s.
10 320.08(13), for vehicles subject to registration under s.
11 320.08(6)(a) that are short-term rental vehicles, as defined
12 in s. 325.202(14)~~s. 325.202(15)~~, and for any vehicle for
13 which a registration period is not otherwise specified, the
14 registration period begins June 1 and ends May 31. For a
15 vehicle subject to this registration period, the renewal
16 period is the 30-day period beginning June 1.

17 Section 24. Subsections (8) and (11) of section
18 325.207, Florida Statutes, are amended to read:

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

21 (8) Any contract authorized under this section shall
22 contain:

23 (a) A contract term of not less than 7 5 years of
24 actual test operations with a 6-month cancellation provision.
25 Annual renewals thereafter are subject to the concurrence of
26 the Secretary of Environmental Protection.

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

30 (c) Minimum requirements for adequate staff,
31 equipment, management, and operating hours which may include

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1 evening or weekend hours or both.

2 (d) Provisions for surveillance by the department of
3 the contractor to ensure compliance with emissions test
4 standards and applicable procedures, rules, regulations, and
5 laws.

6 (e) Provision for the state, upon default of the
7 contractor, to terminate the contract with the contractor and
8 assume operation of the motor vehicle emissions inspection
9 station.

10 (f) Provision for the state, upon termination of the
11 term of the contract or upon assumption of the operation of
12 the program pursuant to paragraph (e), to have transferred or
13 assigned to it, for reasonable compensation, any interest in
14 land, buildings, improvements, services, and equipment used by
15 the contractor in the operation of an inspection station.

16 (g) Provision for the state, upon termination of the
17 term of the contract or upon assumption of the operation of
18 the program, to have transferred and assigned to it, for
19 reasonable compensation, any contract rights and related
20 obligations for land, buildings, improvements, and equipment
21 used by the contractor in the operation of the inspection
22 station.

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

28 (i) A provision that no damages of any type, including
29 liquidated damages, shall be ~~procedure for determining the~~
30 ~~damages~~ payable by the state to the contractor if the
31 Legislature or the department abolishes the inspection program

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1 at any time prior to the conclusion of the contract term. ~~This~~
2 ~~procedure must specify that the contractor and the department~~
3 ~~have 120 days from the effective date of the termination of~~
4 ~~the program to negotiate an amount to be paid to the~~
5 ~~contractor as reasonable compensation for its loss resulting~~
6 ~~from the termination of the contract due to the termination of~~
7 ~~the program. If the contractor and the department are not~~
8 ~~able to agree to an amount by the end of the 120-day period,~~
9 ~~the department shall determine the amount of reasonable~~
10 ~~compensation and notify the contractor in writing of its~~
11 ~~determination within 14 days of the end of the negotiation~~
12 ~~period and shall offer the contractor a point of entry to a~~
13 ~~proceeding under ss. 120.569 and 120.57 pursuant to the~~
14 ~~department's rules of procedure. This provision must specify~~
15 ~~that payment of such compensation to the contractor is subject~~
16 ~~to appropriation of funds for this purpose by the Legislature~~
17 ~~and that the department agrees in good faith to request the~~
18 ~~Legislature to appropriate the funds to pay such reasonable~~
19 ~~compensation. The damages recoverable by the contractor if~~
20 ~~the Legislature abolishes the program shall be limited to the~~
21 ~~funds appropriated by the Legislature pursuant to this~~
22 ~~section.~~

23 (j) Any other provision, including periodic audits of
24 inspection fees collected, deemed necessary by the department
25 for the administration or enforcement of the emissions
26 inspection contract.

27 (k) A provision requiring compliance with minority
28 business enterprise procurement goals set forth in s. 287.0945
29 in contracts for the construction of inspection stations and
30 for document printing costs and costs associated with the
31 maintenance, repair, reconstruction, renovation, and expansion

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1 of inspection stations. Each contractor shall submit to the
2 department no later than March 1 of each year an affidavit
3 certifying compliance with the provisions of this paragraph.

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

9 (m) A provision requiring that the contractor
10 determine, for each county in the program area, the
11 availability of county facilities formerly used for the
12 inspection of motor vehicles and that the contractor explore
13 with appropriate county officials the feasibility of the
14 contractor's acquisition or lease of such facilities, if any,
15 for use as inspection stations.

16 (n) A provision authorizing the department to amend
17 the contract if the Legislature enacts legislation that
18 changes the number of motor vehicle model years that are
19 subject to inspection requirements.

20 ~~(o) A provision authorizing the contract to be amended~~
21 ~~or canceled by the department upon statewide implementation of~~
22 ~~clean fuel requirements promulgated by the United States~~
23 ~~Environmental Protection Agency.~~

24 ~~(11) Before accepting proposals, the department shall~~
25 ~~divide the state into three or more contract zones. The~~
26 ~~department shall contract with a private contractor for the~~
27 ~~exclusive right to conduct vehicle inspections in each program~~
28 ~~area zone. However, any contractor may bid on more than one~~
29 ~~zone, and the department may contract with a contractor to~~
30 ~~conduct vehicle inspections in more than one contract zone.~~

31 Section 25. Section 325.2135, Florida Statutes, is

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1 amended to read:

2 325.2135 Motor vehicle emissions inspection program;
3 contracts; fees.--The department ~~may extend the current~~
4 ~~emissions inspection program contracts for a period of time~~
5 ~~sufficient to implement new contracts resulting from~~
6 ~~competitive proposals, and shall enter into and implement one~~
7 ~~contract or more contracts~~ by June 30, 2000, for a biennial
8 inspection program for vehicles, except the current model year
9 and the two prior model years, using an enhanced inspection
10 ~~the basic~~ test for hydrocarbon emissions, and carbon monoxide
11 emissions, and oxides of nitrogen. The requirements for the
12 program included in the contract proposals must be based on
13 the requirements under this chapter unless those requirements
14 conflict with this section. No contract entered into under
15 this subsection may be for longer than 7 years, with annual
16 renewals thereafter in accordance with the provisions of
17 paragraph s. 325.207(8)(a). Any contract authorized under this
18 section must contain a provision that, ~~after 4 years,~~the
19 department reserves the right to cancel the contract upon 6
20 months' notice to the contractor, upon a determination by the
21 Secretary of Environmental Protection that a motor vehicle
22 emissions program is no longer needed in the program area.
23 Notwithstanding the provisions of s. 325.214, the fee for
24 motor vehicle inspection proposed by the Department of Highway
25 Safety and Motor Vehicles may not exceed \$19 per inspection.

26 Section 26. Section 325.205, Florida Statutes, is
27 created to read:

28 325.205 Within 90 days after the effective date of
29 this act, the Department of Environmental Protection shall
30 initiate a revision of the United States Environmental
31 Protection Agency-approved State Implementation Plan for the

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1 program area to back out the emission credits from the motor
2 vehicle inspection program.

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4 (Redesignate subsequent sections.)

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7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 On page 54, line 6, after the semicolon,

10
11 insert:

12 amending s. 325.202, F.S.; deleting the term
13 "nonattainment area" and redefining the term
14 "program area"; amending s. 320.055, F.S.;
15 conforming a cross-reference; amending s.
16 325.207, F.S.; providing for a new 7-year
17 contract term with annual renewals; eliminating
18 liquidated damages; revising provisions
19 relating to the termination of motor vehicle
20 emissions contracts; providing for contracts in
21 each program area; amending s. 325.2135, F.S.;
22 revising procedures to be included in motor
23 vehicle emissions contracts; creating s.
24 325.205, F.S.; directing the Department of
25 Environmental Protection to submit a revision
26 to Florida's State Implementation Plan to the
27 United States Environmental Protection Agency;

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