

**STORAGE NAME:** h0819.ep

**DATE:** March 28, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ENVIRONMENTAL PROTECTION  
ANALYSIS**

**BILL #:** HB 819

**RELATING TO:** Motor Vehicle Emissions

**SPONSOR(S):** Representative Fuller; Greenstein

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) ENVIRONMENTAL PROTECTION
  - (2) TRANSPORTATION
  - (3) FINANCE & TAXATION
  - (4) TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROP.
  - (5)
- 

**I. SUMMARY:**

This bill would repeal all sections of Chapter 325, Florida Statutes, relating to the Motor Vehicle Inspection Program and would effectively terminate that program. This would effect six counties which currently implement this program, including: Palm Beach, Dade, Broward, Duval, Hillsborough and Pinellas.

More specifically, this bill would repeal the following sections of the Florida Statutes: 325.001, 325.201, 325.202, 325.203, 325.204, 325.206, 325.207, 325.2075, 325.208, 325.209, 325.210, 325.211, 325.212, 325.213, 325.2135, 325.214, 325.215, 325.216, 325.217, 325.218, and 325.219.

The bill would have a significant fiscal impact on the state government and the private-sector.

This bill takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1963, Congress created the **Clean Air Act**. The Clean Air Act, as amended, regulates pollution control and requires communities to meet air quality standards for certain air pollutants. The EPA implements the Clean Air Act through federal regulations. Pursuant to the Clean Air Act, the states are required to enter into a State Implementation Plan with the EPA which provides the means by which each state addresses air pollution.

The EPA designates the regions which meet the National Ambient Air Quality Standards (NAAQS) under the Clean Air Act as "**attainment**" areas. Conversely, the regions which fail to meet the NAAQ standard for one or more criterium pollutants are designated as "**nonattainment**" areas. In 1990, Congress amended the Clean Air Act and set forth a new attainment schedule.

The 1990 amendment required any area falling within a particular nonattainment classification to meet the ozone NAAQS within a specified date ranging from 3 to 20 years, depending upon the extent of ozone pollution. When the NAAQ standards changed in 1990, six of Florida's counties fell into nonattainment and failed to satisfy acceptable ozone levels, they were: Duval, Dade, Broward, Palm Beach, Pinellas and Hillsborough.

In response, the Florida Legislature enacted the **Clean Outdoor Air Act**, creating the Motor Vehicle Inspection Program (MVIP) - ss. 325.201- 325.219, to help bring those counties into compliance. The purpose of the Clean Outdoor Air Act is to improve air quality in the counties designated by the EPA as nonattainment areas. This is done by ensuring vehicle emissions inspections. Vehicles that do not pass the inspection must be repaired, or obtain a waiver or exemption in order to have their registration renewed.

Section 325.207, F.S., also sets forth the requirements for the inspection stations, and provides the Dept. of Highway and Safety Motor Vehicle with the authority to enter into contracts with private contractors to operate the inspection stations.

In 1993, the state requested that the above six counties be re-designated to "attainment status" based upon their improved air quality. The EPA approved the re-designation with the stipulation that the counties would have "maintenance plans" for 10 years after the date of re-designation, as required by the Clean Air Act. Upon approval by the EPA, the

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maintenance plans were incorporated into the Florida's State Implementation Plan (SIP). This plan may be changed only with the approval of the EPA.

In 1997, the EPA revised the NAAQ standard for ozone. The new standard is called the "8 hour ozone standard." However a host of petitioners challenged the new standards in court claiming that the EPA arbitrarily set these standards without appropriate legislative guidelines. *America Trucking Associations, Inc. v. United States Environmental Protection Agency*, No. 97-1440 (D.C. Circuit, May 1999). Under the new 8 hour standard, a total of 300 counties nationwide would not meet the new EPA standards and would fall into nonattainment, versus 106 counties which do not meet the current requirement. Under the new standards, both Hillsborough and Pinellas may fall into nonattainment. The court held that the EPA violated the nondelegation of legislative authority doctrine and remanded the new NAAQ standards back to EPA.

According to the Florida DEP, air monitoring data suggests that four counties, Broward, Dade, Duval, and Palm Beach will be in compliance with the new ozone standards. Therefore, the MVIP would no longer be needed in these four counties. However, Hillsborough and Pinellas (and possibly Escambia) counties are not expected to be in compliance with the new ozone standards and may or may not require the MVIP. The EPA is expected to make its determinations regarding "attainment status" in July 2000.

The EPA posted a revised SIP in the Federal Register which proposes to eliminate Florida's program in Dade, Palm Beach, Duval and Broward counties. However, this plan would still require Hillsborough and Pinellas to comply with the vehicle emissions program. If this bill passes, it will be inconsistent with the EPA's proposed plan. As a result, Florida's DEP currently suggests to terminate the vehicle inspection program in compliance with EPA's recommendation to avoid sanctions under the Clean Air Act.

Prior to the imposition of any federal sanctions the Environmental Protection Agency would have to make a finding the state had violated the State Implementation Plan. This would then trigger an 18-month period of review during which the state would need to demonstrate how it would achieve the reduction credits currently associated with the program and modify the State Implementation Plan accordingly. If after this 18-month period of review, the Environmental Protection Agency determined the state had failed to submit these requirements, sanctions could be imposed. Potential sanctions include the withholding of highway funds and imposition of emissions offset requirements. The withholding of highway funds would be applicable to the relevant non-attainment area, not the entire state. The emissions off-set requirements provide for a 2 to 1 ratio of emissions reductions to increased emissions for new or modified sources or emissions units for which permitting is required.

If the state does terminate the contracts prior to the contractual date of expiration, then the state must set forth the procedure for determining damages payable by the state to the contractor pursuant to s. 325.207(7)(i), F.S. Currently, all existing contracts are schedule to expire in April and May of 2000. During the 1999 Legislative Session, the Legislature required the DHSMV to renew the contracts by June 30, 2000 for a period not to exceed 7 years.

**C. EFFECT OF PROPOSED CHANGES:**

This bill would effectively terminate the vehicle emission inspection programs in six counties: Palm Beach, Dade, Broward, Duval, Hillsborough and Pinellas.

Termination of the MVIP in Palm Beach, Dade, Broward, and Duval counties is less problematic since the EPA is recommending the same change to the State Implementation Plan in its federal register.

However, elimination of the MVIP in Hillsborough and Pinellas counties is not part of EPA's recommended revision. If the EPA's revised plan is adopted into law, and this bill passed into law, the State of Florida may be fined for failing to comply with the new State Implementation Plan as amended.

According to DEP, it is doubtful the Environmental Protection Agency would approve a revision to the State Implementation Plan eliminating the MVIP in those two counties without an alternative ozone control strategy being implemented. Such control strategies might include additional nitrogen oxide controls on stationary sources or early implementation of low-sulfur fuel in the area.

However, prior to the imposition of any federal sanctions the Environmental Protection Agency would have to make a finding the state had violated the State Implementation Plan. This would then trigger an 18-month period of review during which the state would need to demonstrate how it would achieve the reduction credits currently associated with the program and modify the State Implementation Plan accordingly. If after this 18-month period of review, the Environmental Protection Agency determined the state had failed to submit these requirements, sanctions could be imposed. Potential sanctions include the withholding of highway funds and imposition of emissions offset requirements. The withholding of highway funds would be applicable to the relevant non-attainment area, not the entire state. The emissions off-set requirements provide for a 2 to 1 ratio of emissions reductions to increased emissions for new or modified sources or emissions units for which permitting is required.

In addition, the effective date of the bill also presents a concern. Section 325.207(8), F.S., currently provides for reasonable compensation to the MVIP contractors should the Legislature abolish the program prior to the conclusion of the contract term. As provided in s. 325.2135, F.S., the DHSMV has until June 30, 2000, to renew the current inspection contract. Therefore, if the bill becomes law prior to July 1, 2000, the state may be subject to damages.

Lastly, this bill would reduce revenue to the Highway Safety Operating Trust Fund by \$16.4 million.

**D. SECTION-BY-SECTION ANALYSIS:**

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

**REVENUE REDUCTION:**

	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
General Revenue Fund	\$ 1,232,000	\$ 1,253,000	\$ 1,267,000
Highway Safety Operating TF	<u>16,368,000</u>	<u>16,647,000</u>	<u>16,833,000</u>
Total Revenue Reduction	<u>\$17,600,000</u>	<u>\$17,900,000</u>	<u>\$18,100,000</u>

2. Expenditures:

**EXPENDITURES ELIMINATED/ SAVED:**

	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
Highway Safety Operating TF:			
Salaries & Benefits	\$ 1,655,000	\$ 1,688,000	\$1,722,000
Expenses	103,000	103,000	103,000
Risk Management	30,000	30,000	30,000
Transfer to DEP	<u>250,000</u>	<u>250,000</u>	<u>250,000</u>
Total expenditures eliminated	<u>\$ 2,038,000</u>	<u>\$2,072,000</u>	<u>\$2,105,000</u>

**EXPENDITURES INCURRED:**

If the contracts are discontinued prior to the contractual expiration date, the state may incur damages. These damages are indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

**Direct private sector costs:**

The emission inspection station contractors would receive a revenue reduction of approximately \$35,800,000 during FY 2000-01 and approx. \$36,200,000 during FY 2001-02.

The revenue reduction associated with the repair industry would be approximately \$26,500,000 during FY 2000-01.

**Direct private sector benefits:**

The motor vehicle owners would save the costs of vehicle inspections. These costs would reach approximately \$53,400,000 during FY 2000-01 and approximately \$54,100,000 during FY 2001-02.

**D. FISCAL COMMENTS:**

N/A

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

**V. COMMENTS:**

It is recommended to change the effective date of this bill to avoid statutory damages. If the vehicle emissions program is terminated early, prior to the ending date of the existing contracts, then the statute provides for damages to the contractors. The department is required to seek an appropriation to cover such damages.

However, all existing state inspection contracts are set to expire before June 30, 2000, therefore if this bill is to become effective on July 1, 2000, the state will probably avoid such statutory damages.

If this bill is passed, and the original SIP is kept as is, the EPA may sanction the state of Florida for failing to enact their state implementation plan as required under the Clean Air Act, 1990, as amended. Therefore, prior to abolishing the state of Florida's entire vehicle emissions program, the state would have to submit an amended state implementation plan to the EPA for approval. This would avoid federal sanctions under the Clean Air Act.

However, EPA did state in the Federal Register that it proposes to eliminate Florida's vehicle emissions program in Dade, Palm Beach, Duval and Broward counties. However, the EPA would still require Hillsborough and Pinellas counties to comply with vehicle emissions

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programs. Therefore, if the EPA's plan is adopted and this bill passes, the EPA may still sanction the state for failure to comply with the plan.

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

This bill revokes the vehicle emissions program and the department's rulemaking authority related to this program.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

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Christine Hoke, J.D.

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