

By Senator Crist

12-345-04

1 A bill to be entitled
2 An act relating to motor vehicle emissions;
3 amending s. 316.2935, F.S.; authorizing persons
4 to report the license plate number of a vehicle
5 emitting visible emissions from its exhaust
6 pipe to the Department of Environmental
7 Protection via a telephone hotline; providing
8 for a caller to the hotline to remain
9 anonymous; requiring the department to maintain
10 a database for tracking reports and notify the
11 vehicle owner; requiring the department to
12 notify the local law enforcement agency
13 following receipt of three reports within a
14 specified period from different sources;
15 requiring the department to conduct an
16 educational awareness campaign; requiring
17 information to be included in driver's license
18 handbooks; providing an effective date.

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

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22 Section 1. Section 316.2935, Florida Statutes, is
23 amended to read:24 316.2935 Air pollution control equipment; tampering
25 prohibited; penalty.--26 (1)(a) It is unlawful for any person or motor vehicle
27 dealer as defined in s. 320.27 to offer or display for retail
28 sale or lease, sell, lease, or transfer title to, a motor
29 vehicle in Florida that has been tampered with in violation of
30 this section, as determined pursuant to subsection (8)~~(7)~~.

31 Tampering is defined as the dismantling, removal, or rendering

1 ineffective of any air pollution control device or system
2 which has been installed on a motor vehicle by the vehicle
3 manufacturer except to replace such device or system with a
4 device or system equivalent in design and function to the part
5 that was originally installed on the motor vehicle. All motor
6 vehicles sold, reassigned, or traded to a licensed motor
7 vehicle dealer are exempt from this paragraph.

8 (b) At the time of sale, lease, or transfer of title
9 of a motor vehicle, the seller, lessor, or transferor shall
10 certify in writing to the purchaser, lessee, or transferee
11 that the air pollution control equipment of the motor vehicle
12 has not been tampered with by the seller, lessor, or
13 transferor or their agents, employees, or other
14 representatives. A licensed motor vehicle dealer shall also
15 visually observe those air pollution control devices listed by
16 department rule pursuant to subsection(8)(~~7~~), and certify
17 that they are in place, and appear properly connected and
18 undamaged. Such certification shall not be deemed or
19 construed as a warranty that the pollution control devices of
20 the subject vehicle are in functional condition, nor does the
21 execution or delivery of this certification create by itself
22 grounds for a cause of action between the parties to this
23 transaction.

24 (c) All motor vehicles sold, reassigned, or traded by
25 a licensed motor vehicle dealer to a licensed motor vehicle
26 dealer, all new motor vehicles subject to certification under
27 s. 207, Clean Air Act, 42 U.S.C. s. 7541, and all lease
28 agreements for 30 days or less are exempt from this
29 subsection. Also exempt from this subsection are sales of
30 motor vehicles for salvage purposes only.

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1 (2) No person shall operate any gasoline-powered motor
2 vehicle, except a motorcycle, moped, scooter, or an imported
3 nonconforming motor vehicle which has received a one-time
4 exemption from federal emission control requirements under 40
5 C.F.R. 85, subpart P, on the public roads and streets of this
6 state which emits visible emissions from the exhaust pipe for
7 more than a continuous period of 5 seconds, and no person
8 shall operate on the public roads or streets of this state any
9 motor vehicle that has been tampered with in violation of this
10 section, as determined pursuant to subsection~~(8)~~~~(7)~~.

11 (3) No person shall operate on the public roads or
12 streets of this state any diesel-powered motor vehicle which
13 emits visible emissions from the exhaust pipe for more than a
14 continuous period of 5 seconds, except during engine
15 acceleration, engine lugging, or engine deceleration.

16 (4)(a) Any person having knowledge of violation of
17 subsection (2) or subsection (3) may report the license plate
18 number of the vehicle to the Department of Environmental
19 Protection through a telephone hotline maintained by the
20 department for the purpose of receiving such reports. A caller
21 to the hotline may remain anonymous, and, if the caller
22 provides his or her name, the name shall be kept confidential.

23 (b) The Department of Environmental Protection shall
24 maintain a database to monitor the reports. Upon receipt of
25 three reports within one 3-month period from different sources
26 concerning the same vehicle, the Department of Environmental
27 Protection shall send notice to the owner of record, as
28 determined by the Department of Highway Safety and Motor
29 Vehicles, that the vehicle is not in compliance with this
30 section. If, after the owner has been notified, a subsequent
31 report is received, the Department of Environmental Protection

1 shall notify the local law enforcement agency of the name and
2 address of the owner of the vehicle for the purpose of issuing
3 a citation to the owner of the vehicle.

4 (c) The Department of Environmental Protection shall
5 provide an educational awareness campaign to inform the public
6 of the requirements of this subsection. The Department of
7 Highway Safety and Motor Vehicles shall provide information
8 concerning this subsection in all driver's license handbooks
9 published after January 1, 2005.

10 (5)(4) This section shall be enforced by the
11 Department of Environmental Protection and any law enforcement
12 officer of this state as defined in s. 112.531.

13 (6)(5) Any person who knowingly and willfully violates
14 subsection (1) shall be punished as follows:

15 (a) For a first violation, violators shall be guilty
16 of a misdemeanor of the second degree, punishable as provided
17 in s. 775.082 or s. 775.083, except that a motor vehicle
18 dealer shall be guilty of a misdemeanor of the first degree,
19 punishable as provided in s. 775.082 or s. 775.083.

20 (b) For a second or subsequent offense, violators,
21 including motor vehicle dealers, shall be guilty of a
22 misdemeanor of the first degree, punishable as provided in s.
23 775.082 or s. 775.083. In addition, the Department of Highway
24 Safety and Motor Vehicles may temporarily or permanently
25 revoke or suspend the motor vehicle dealer license authorized
26 pursuant to the provisions of s. 320.27.

27 (7)(6) Except as provided in subsection (6)(5), any
28 person who violates subsection (1), subsection (2), or
29 subsection (3) shall be charged with a noncriminal traffic
30 infraction, punishable as a nonmoving violation as provided in
31 chapter 318. However, the penalty may be reduced if the person

1 committing the violation corrects the violation pursuant to
2 the provisions of s. 316.6105.

3 (8)~~(7)~~ The Department of Environmental Protection
4 shall adopt rules that define the specific wording of the
5 required certification and the circumstances under which the
6 certificate is not required. In addition, the department shall
7 adopt rules as necessary to conform to requirements of federal
8 law, to establish procedures to determine compliance with this
9 section, including specifying what tampering activities
10 constitute a violation of this section, and to provide for
11 exceptions and waivers. For those rules applicable pursuant to
12 subsection (1) to licensed motor vehicle dealers for
13 certification by visual observation, the air pollution control
14 devices or systems that shall be included in such
15 certification for motor vehicles dated model year 1981 or
16 later are the catalytic converter, fuel inlet restrictor,
17 unvented fuel cap, exhaust gas recirculation system (EGR), air
18 pump and/or air injector system (AIS), and fuel evaporative
19 emissions system (EVP). The department may by rule remove or
20 add devices or systems to this test if justified by
21 developments in air pollution control technology or changes in
22 federal law.

23 Section 2. This act shall take effect January 1, 2005.

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26 SENATE SUMMARY

27 Authorizes any person to report a vehicle emitting
28 visible emissions from its exhaust pipe to the Department
29 of Environmental Protection. Requires the department to
30 notify the vehicle owner and notify the local law
enforcement agency of multiple reports concerning the
same vehicle. Requires the department to conduct an
educational awareness campaign. (See bill for details.)

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