



2009 SENATE BILL 505

February 1, 2010 – Introduced by Senators WIRCH and TAYLOR, cosponsored by Representatives STEINBRINK, GOTTLIEB, HONADEL and PASCH. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 **AN ACT** *to amend* 110.20 (5) (a) and (b), 110.20 (8) (am) 1., 110.20 (8) (bm), 110.20
2 (9) (e) and 110.20 (12); and *to create* 110.20 (8) (am) 7. and 8., 110.20 (8) (c) and
3 110.20 (9) (L), (m) and (n) of the statutes; **relating to:** motor vehicle emission
4 inspections and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Transportation (DOT) to conduct a motor vehicle emission inspection and maintenance program (I/M program) in counties in which the air quality does not meet certain federal standards. Under the I/M program, most motor vehicles that are subject to emission limitations established by the Department of Natural Resources (DNR) must pass periodic emission inspections and may not be registered by DOT unless they have passed these inspections. DOT may contract with third parties to perform vehicle emission inspections under the I/M program. Current law prohibits DOT from contracting with a person engaged in the business of selling, maintaining, or repairing motor vehicles or of selling motor vehicle replacement or repair parts (vehicle dealer or servicer). Current law also provides that, if a vehicle fails to pass an emission inspection, any repair or adjustment necessary to bring the vehicle into compliance with applicable emission limitations may be made by the vehicle owner or by any person selected by the owner.

This bill allows DOT to contract with any person to perform vehicle emission inspections under the I/M program, including a vehicle dealer or servicer. The bill also specifies that DOT may allow third-party contractors to enter into subcontracts

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for the performance of the contractor's functions or duties, but the subcontractor must comply with all requirements applicable to the contractor. With DOT's approval, the third-party contractor may also subcontract with a vehicle dealer or servicer. The bill also allows vehicle emission inspections to be performed by DOT or by persons who are authorized by DOT to perform the inspections but who are not under contract with DOT. If an emission inspection is performed by a vehicle dealer or servicer, and the vehicle fails the inspection, the vehicle dealer or servicer must advise the vehicle owner that the owner is not required to have any necessary repair or adjustment made by, or to purchase any necessary service or part from, the vehicle dealer or servicer and has the right to select a vendor of the owner's own choice. DOT rules must require each vehicle dealer or servicer that performs emission inspections to periodically report to DOT information related to vehicle repairs and reinspections after a failed inspection. DOT must make information gathered from these reports available to the public.

The bill allows DOT, with the concurrence of DNR, to grant temporary vehicle emission inspection exemptions during any period in which DOT is unable to operate the I/M program. The bill requires DOT to prescribe procedures for granting temporary vehicle emission inspection exemptions and for authorizing persons other than contractors to perform motor vehicle emission inspections.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 110.20 (5) (a) and (b) of the statutes are amended to read:

2 110.20 (5) (a) Any county identified in a certification under s. 285.30 (3). The
3 department shall terminate the program in the county ~~at the end of the contractual~~
4 ~~period in effect~~ when the county is withdrawn under s. 285.30 (4). If the program is
5 being operated under contract, termination shall occur at the end of the contractual
6 period in effect.

7 (b) Any county whose board of supervisors has adopted a resolution requesting
8 the department to establish an inspection and maintenance program in the county
9 for the purpose of improving ambient air quality beyond the standards mandated by
10 section 7409 of the federal act. The department shall terminate the program in the
11 county ~~at the end of the contractual period in effect~~ when the county board adopts

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1 a resolution requesting termination of the program. If the program is being operated
2 under contract, termination shall occur at the end of the contractual period in effect.

3 **SECTION 2.** 110.20 (8) (am) 1. of the statutes is amended to read:

4 110.20 **(8)** (am) 1. The emissions test and equipment inspection of nonexempt
5 vehicles may be performed by persons under contract with the department. Each
6 such contract shall require the contractor to operate inspection stations, which may
7 be permanent or mobile, for a minimum of 3 years and shall provide for equitable
8 compensation to the contractor if the operation of an inspection and maintenance
9 program within any county is terminated within 3 years after the inspection and
10 maintenance program in the county is begun. No officer, director or employee of the
11 contractor may be an employee of the department ~~or a~~. The department may
12 contract with any person, including any person engaged in the business of selling,
13 maintaining, or repairing motor vehicles or of selling motor vehicle replacement or
14 repair parts. The department shall require the contractor to operate a sufficient
15 number of inspection stations, permanent or mobile, to ensure public convenience in
16 those counties identified under sub. (5).

17 **SECTION 3.** 110.20 (8) (am) 7. and 8. of the statutes are created to read:

18 110.20 **(8)** (am) 7. Each contract under subd. 1. may authorize the contractor
19 to enter into subcontracts for the performance of any of the contractor's functions or
20 duties under the contract. In performing any such function or duty, a subcontractor
21 shall comply with all requirements applicable to the contractor. With the
22 department's approval, the contractor may subcontract with any person engaged in
23 the business of selling, maintaining, or repairing motor vehicles or of selling motor
24 vehicle replacement or repair parts.

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1 8. Each contract under subd. 1. shall require that, if an emissions inspection
2 is performed by a contractor or subcontractor engaged in the business of selling,
3 maintaining, or repairing motor vehicles or of selling motor vehicle replacement or
4 repair parts and the inspection shows that the vehicle does not comply with
5 applicable emission limitations, the contractor or subcontractor shall advise the
6 vehicle owner as specified in sub. (12).

7 **SECTION 4.** 110.20 (8) (bm) of the statutes is amended to read:

8 110.20 (8) (bm) The emissions test and equipment inspection of nonexempt
9 vehicles may be performed by the department or by persons who are not under
10 contract with the department but who are otherwise authorized by the department
11 to perform such testing and inspection. The department may establish methods for
12 emissions testing and equipment inspection by the department or other authorized
13 persons of nonexempt vehicles, in addition to testing and inspection by contractors.
14 These methods may include the installation and operation by the department or
15 other authorized persons of self-service inspection stations and the utilization of any
16 technology related to emissions or data transmission with which motor vehicles may
17 be equipped, including reading and reporting diagnostic codes stored in any
18 on-board diagnostic system capable of monitoring all emission-related engine
19 systems or components. The department may establish methods for emissions
20 testing and equipment inspection specifically applicable to self-service inspection
21 stations, which methods shall apply equally to self-service inspection stations
22 operated by contractors under par. (am) 1m. and self-service inspection stations
23 operated ~~by the department~~ under this paragraph.

24 **SECTION 5.** 110.20 (8) (c) of the statutes is created to read:

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1 110.20 **(8)** (c) 1. Notwithstanding subs. (5), (6), and (9) (d), the department of
2 transportation may, with concurrence of the department of natural resources, grant
3 a temporary exemption for nonexempt vehicles during any period in which the
4 department of transportation is unable to operate an inspection and maintenance
5 program. An exemption granted under this subdivision is valid until the next
6 required inspection of the vehicle required under sub. (6), or until the time given by
7 the department of transportation to complete inspection of the vehicle, whichever
8 occurs first. Notwithstanding subs. (7) and (10m), the department of transportation
9 may deny requests for inspection during any period in which exemptions are granted
10 under this subdivision.

11 2. For purposes of ss. 341.04 (1), 341.09 (2m) (a) 1. b. and 2. and (9), and 341.65
12 (2) (e) 2m., an inspection under this section is not required during any period in which
13 a temporary exemption is granted under subd. 1. For purposes of ss. 341.09 (5),
14 341.10 (10) (intro.), 341.26 (2m) (am), and 341.63 (1) (e), a vehicle does not require
15 inspection under sub. (6) during any period in which a temporary exemption is
16 granted under subd. 1.

17 **SECTION 6.** 110.20 (9) (e) of the statutes is amended to read:

18 110.20 **(9)** (e) Prescribe a procedure for conducting all federally required
19 performance audits of inspection and maintenance program operations and
20 personnel and all enforcement against contractors, and other persons authorized by
21 the department to perform testing and inspection, required by 40 CFR 51.364.

22 **SECTION 7.** 110.20 (9) (L), (m) and (n) of the statutes are created to read:

23 110.20 **(9)** (L) Prescribe procedures for authorizing persons other than
24 contractors, subcontractors of contractors, or the department to perform emission
25 testing and equipment inspection as provided under sub. (8) (bm).

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1 (m) Require each person engaged in the business of selling, maintaining, or
2 repairing motor vehicles or of selling motor vehicle replacement or repair parts, in
3 a county identified in sub. (5), that performs emissions inspections to collect and
4 periodically report to the department information related to vehicle repairs and
5 reinspections after the vehicle has failed an inspection test, including the repairs
6 performed, any technician recommended repairs not performed at the owner's
7 request, the name and address of the facility that performed the repairs, the name
8 of the individual who performed the repairs, and, if applicable, the identification
9 number of the recognized repair facility or recognized automotive emission repair
10 technician, or both, that performed the repairs. The reports shall also include
11 compiled information containing the number of vehicles submitted for reinspection
12 and percentages indicating the number of vehicles that passed, failed, and received
13 waivers after repair following a failed inspection test. The department shall make
14 information gathered from these reports available to the public.

15 (n) Prescribe procedures for granting temporary exemptions under sub. (8) (c)

16 1.

17 **SECTION 8.** 110.20 (12) of the statutes is amended to read:

18 110.20 (12) REPAIRS. Repairs or adjustments necessary to bring a vehicle into
19 compliance with applicable emissions limitations are the responsibility of the vehicle
20 owner and may be made by the owner or any person selected by the owner. If the
21 emissions inspection is performed in a county identified in sub. (5) by a person
22 engaged in the business of selling, maintaining, or repairing motor vehicles or of
23 selling motor vehicle replacement or repair parts and the vehicle fails the inspection
24 test, then after the failed test the person shall advise the vehicle owner that the
25 owner is not required to have any repair or adjustment necessary to bring the vehicle

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1 into compliance made by, or to purchase any necessary service or part from, the
2 person and has the right to select a vendor of the owner's own choice. For a
3 nonexempt vehicle with a model year of 1981 or later, only repairs performed by
4 automotive repair technicians, as defined by the department by rule, shall be valid
5 for the issuance of a waiver of compliance under sub. (13).

6

(END)