

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1222

SPONSOR: Senator Argenziano and others

SUBJECT: Nonagricultural Vehicles

DATE: March 17, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/1 amendment</u>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill enables the Department of Agriculture and Consumer Services (department) to establish rules that will continue to allow certain vehicles that are not carrying agriculture products to by-pass agriculture inspection stations. It also makes it unlawful for a person to impersonate an inspector, agent, or other employee of the department.

This bill substantially amends sections 570.15 and 570.16 of the Florida Statutes.

II. Present Situation:

Inspection Station By-pass Program

Section 570.15, F.S., gives authorized employees of the Department of Agriculture and Consumer Services access to places of business, factories, farm buildings, carriages, railroad cars, trucks, trailers, vessels, certain other motor vehicles, and all records or documents pertaining thereto, for purposes of inspection.

All vehicles are required to stop at official agriculture inspection stations to be inspected, unless the vehicle is an exempt vehicle, such as a private passenger vehicle or a pick-up truck with an open cargo area. In 2002, in an effort to alleviate traffic congestion at some of the inspection stations, the department tested a "Prepass Program" whereby companies that met certain conditions and criteria could by-pass the station by use of a transponder system.

The conditions and criteria for a company's participation in the by-pass program are set forth in rules promulgated by the department. The department's rulemaking authority is derived from ss. 570.07(23) and (24), F.S., which state:

The department shall have and exercise the following functions, powers, and duties:

(23) To adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it.

(24) To promulgate rules pertaining to the inspection of quality, the truthful and honest branding of each package shipped, and the prohibiting of any shipper having the benefit of shipping through the facilities of the department who does not strictly observe and obey such rules in the preparation, packing, and shipping of his or her agricultural products.

Agency rulemaking authority is limited by ss. 120.536(1) and 120.54, F.S., which state, in part, that “a grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required.” s. 120.536(1), F.S. There is some concern that the department may need specific legislative authorization regarding the by-pass program conditions set forth in the department’s rules.

Participation in the program is based in large part upon a carrier’s certification to the department that it does not transport products subject to inspection by the department. Qualified companies receive a transponder device which signals the driver, as the vehicle approaches the agricultural inspection station, whether the vehicle may by-pass the station or not. Every twentieth vehicle belonging to the participating company is subject to inspection, and the driver of that particular vehicle is signaled to pull into the station.

Impersonating a Department Employee

The Department of Agriculture and Consumer Services reports that people have impersonated a citrus canker inspector and a pest control inspector to gain access to private property or a business workplace. There is very little deterrence to unauthorized persons impersonating a department employee because there is no statutory prohibition. The department is responsible for regulating food safety, pest control use, fertilizer products and other areas that have a direct impact on the health and welfare of Florida citizens. The department is concerned that access to sensitive industrial areas by unauthorized persons could interfere with its duty to safeguard the general welfare of Florida’s citizens.

III. Effect of Proposed Changes:

Section 1. Authorizes the department to make rules that would allow nonagricultural laden vehicles to pass an agricultural inspection station without stopping for inspection.

Section 2. Makes it a misdemeanor for a person to impersonate an inspector, agent, or other employee of the department.

Section 3. Provides that this act shall take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Agriculture:

Changes the effective date from July 1, 2003, to upon becoming law.