

Amend HB 3587 as follows:

On page 6, line 1, insert the following new sections and renumber subsequent sections accordingly:

SECTION 15. Section 386.001(2), Health and Safety Code, is amended to read as follows:

(2) "Affected county" includes:

- (A) Bastrop County;
- (B) Bexar County;
- (C) Caldwell County;
- (D) Comal County;
- (E) Ellis County;
- (F) Gregg County;
- (G) Guadalupe County;
- (H) Harrison County;
- (I) Hays County;
- (J) Henderson County;
- (K) Hood County;
- (L) Hunt County;
- (M) Johnson County;
- (N) [~~(K)~~] Kaufman County;
- (O) [~~(L)~~] Nueces County;
- (P) [~~(M)~~] Parker County;
- (Q) [~~(N)~~] Rockwall County;
- (R) [~~(O)~~] Rusk County;
- (S) [~~(P)~~] San Patricio County;
- (T) [~~(Q)~~] Smith County;
- (U) [~~(R)~~] Travis County;
- (V) [~~(S)~~] Upshur County;
- (W) [~~(T)~~] Victoria County;
- (X) [~~(U)~~] Williamson County; [~~and~~]
- (Y) [~~(V)~~] Wilson County; and
- (Z) any other county designated as an affected

county by commission rule because of deteriorating air quality.

SECTION 16. Section 386.053(d), Health and Safety Code, is amended to read as follows:

(d) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the

ability of the plan to achieve its goals. Revisions may include, among other changes, adding additional pollutants, adding stationary engines or engines used in stationary applications, adding vehicles and equipment that use fuels other than diesel, or adjusting eligible program categories, as appropriate, to ensure that incentives established under this chapter achieve the maximum possible emissions reductions. The commission shall make a proposed revision available to the public before the 45th day preceding the date of final adoption of the revision and shall hold at least one public meeting to consider public comments on the proposed revision before final adoption.

SECTION 17. Sections 386.101(6) and (9), Health and Safety Code, are amended to read as follows:

(6) "On-road diesel" means an on-road diesel-powered motor vehicle that has a gross vehicle weight rating of 8,500 [~~10,000~~] pounds or more.

(9) "Repower" means to replace an old engine powering an on-road or non-road diesel with a new engine, a used engine, a remanufactured engine, or electric motors, drives, or fuel cells [~~+~~

~~[(A) a new engine that emits at least 30 percent less than the oxides of nitrogen emissions standard required by federal regulation for the current model year for that engine;~~

~~[(B) an engine manufactured later than 1987 that emits at least 30 percent less than the oxides of nitrogen emissions standard emitted by a new engine certified to the baseline oxides of nitrogen emissions standard for that engine;~~

~~[(C) an engine manufactured before 1988 that emits not more than 50 percent of the oxides of nitrogen emissions standard emitted by a new engine certified to the baseline oxides of nitrogen emissions standard for that engine; or~~

~~[(D) electric motors, drives, or fuel cells].~~

SECTION 18. Section 386.102(b), Health and Safety Code, is amended to read as follows:

(b) Projects that may be considered for a grant under the program include:

- (1) purchase or lease of on-road or non-road diesels;
- (2) emissions-reducing retrofit projects for on-road

or non-road diesels;

(3) emissions-reducing repower projects for on-road or non-road diesels;

(4) purchase and use of emissions-reducing add-on equipment for on-road or non-road diesels;

(5) development and demonstration of practical, low-emissions retrofit technologies, repower options, and advanced technologies for on-road or non-road diesels with lower emissions of oxides of nitrogen;

(6) use of qualifying fuel; ~~and~~

(7) implementation of infrastructure projects; and

(8) replacement of on-road or non-road diesels with newer on-road or non-road diesels.

SECTION 19. Section 386.103(a), Health and Safety Code, is amended to read as follows:

(a) Any person as defined by Section 382.003 that owns one or more on-road or non-road diesels that operate primarily within a nonattainment area or affected county of this state or that otherwise contributes to the state inventory of emissions of oxides of nitrogen may apply for a grant under the program. The commission may adopt guidelines to allow a person other than the owner to apply for and receive a grant in order to improve the ability of the program to achieve its goals.

SECTION 20. Section 386.104(f), Health and Safety Code, is amended to read as follows:

(f) A proposed retrofit, repower, replacement, or add-on equipment project must document, in a manner acceptable to the commission, a reduction in emissions of oxides of nitrogen of at least 30 percent compared with the baseline emissions adopted by the commission for the relevant engine year and application. After study of available emissions reduction technologies, after public notice and comment, and after consultation with the advisory board, the commission may revise the minimum percentage reduction in emissions of oxides of nitrogen required by this subsection to improve the ability of the program to achieve its goals.

SECTION 21. Section 386.105, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) The commission may allow for the apportionment of credits associated with a project between the plan and another program or entity if the part of the credit assigned to the program that is part of the plan still meets any applicable cost-effectiveness criteria.

SECTION 22. Section 386.106(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 386.107 and except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project, the commission may not award a grant for a proposed project the cost-effectiveness of which, calculated in accordance with Section 386.105 and criteria developed under that section, exceeds \$13,000 per ton of oxides of nitrogen emissions reduced in the nonattainment area or affected county for which the project is proposed. This subsection does not restrict commission authority under other law to require emissions reductions with a cost-effectiveness that exceeds \$13,000 per ton.

SECTION 23. Section 386.112(b), Health and Safety Code, is amended to read as follows:

(b) The program shall authorize statewide incentives for the reimbursement of incremental costs for the purchase or lease, according to the schedule provided by Section 386.113, of new on-road diesels that are certified by the United States Environmental Protection Agency or the California Air Resources Board to an emissions standard provided by Section 386.113 if the purchaser or lessee of the on-road diesel agrees to register the vehicle in this state and to operate the on-road diesel in this state for not less than 75 percent of the on-road diesel's annual mileage.

SECTION 24. Subchapter C, Chapter 386, Health and Safety Code, is amended by adding Section 386.115 to read as follows:

Sec. 386.115. MODIFICATION OF VEHICLE ELIGIBILITY. After evaluating the availability of vehicles meeting the emissions standards and after public notice and comment, the commission, in consultation with the advisory board, may expand the program to include other on-road vehicles, regardless of fuel type used, that

meet the emissions standards, have a gross vehicle weight rating of greater than 8,500 pounds, and are purchased or leased in lieu of a new on-road diesel.

SECTION 25. Chapter 368, Health and Safety Code, is amended by adding Section 386.116 to read as follows:

Section 386.116. SMALL BUSINESS INCENTIVES. (a) In this section, "small business" means a business owned by a person who:

(1) owns and operates not more than two vehicles, one of which is:

(A) an on-road diesel with a pre-1994 engine model; or

(B) a non-road diesel with an engine with uncontrolled emissions; and

(2) has owned the vehicle described by Subdivision (1)(A) or (B) for more than one year.

(b) The commission by rule shall develop a method of providing fast and simple access to grants under this subchapter for a small business.

(c) The commission shall publicize and promote the availability of grants under this section to encourage the use of vehicles that produce fewer emissions.

(d) On or before December 1 of each even-numbered year, the commission shall report commission actions and results under this section to the governor, lieutenant governor, and speaker of the house of representatives.

SECTION 26. Section 386.202(b), Health and Safety Code, is amended to read as follows:

(b) Programs approved under this subchapter and other energy efficiency programs administered by the utility commission must include energy conservation programs for the retirement of materials and appliances that contribute to energy consumption or peak energy demand to ensure the reduction of energy consumption, energy demand, or peak loads, and associated emissions of air contaminants.

SECTION 27. Section 386.252, Health and Safety Code, is amended to read as follows:

Sec. 386.252. USE OF FUND. (a) Money in the fund may be

used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 [~~72~~] percent of the money in the fund, of which not more than [~~three percent may be used for infrastructure projects and not more than~~] 10 percent may be used for on-road diesel purchase or lease incentives;

~~(2) [for the motor vehicle purchase or lease incentive program, 15 percent of the money in the fund,~~

~~[(3) for the energy efficiency grant program, 7.5 percent of the money in the fund,~~

~~[(4)]~~ for the new technology research and development program, 9.5 [~~7.5~~] percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, [~~and~~] \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, and not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston.

(3) [~~(5)~~] for administrative costs incurred by [~~the utility commission,~~] the commission[~~, the comptroller,~~] and the laboratory, three percent.

(b) Up to 25 [~~15~~] percent of the money allocated under Subsection (a) to a particular program and not expended under that program by January [~~March~~] 1 of the second fiscal year of a fiscal biennium may be used for another program under the plan as determined by the commission in consultation with the advisory board.

SECTION 28. Section 387.003(b), Health and Safety Code, is amended to read as follows:

(b) Under the program, the Texas Council on Environmental Technology shall provide grants to be used to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapter 386 and other new technologies

that show promise for commercialization. The primary objective of this chapter is to promote the development of commercialization technologies that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives.

SECTION 29. Section 387.006(a), Health and Safety Code, is amended to read as follows:

(a) An application for a technology grant under this chapter must show clear and compelling evidence that:

(1) the proposed technology project has a strong commercialization plan and organization; and

(2) the technology proposed for funding:

(A) is likely to be offered for commercial sale in this state as soon as practicable but no later than ~~[within]~~ five years after the date of the application for funding; and

(B) once commercialized, will offer opportunities for projects eligible for funding under Chapter 386.

SECTION 30. Section 388.003, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) A building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance.

SECTION 31. Section 388.004, Health and Safety Code, is amended to read as follows:

Section 388.004. ENFORCEMENT OF ENERGY STANDARDS OUTSIDE OF MUNICIPALITY. (a) For construction outside of the local jurisdiction of a municipality:

(1) a building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance;

(2) a building with inspections from private code-certified inspectors using the energy efficiency chapter of the International Residential Code or International Energy Conservation Code shall be considered in compliance; and

(3) a builder who does not have access to either of the above methods for a building shall certify compliance using a form provided by the laboratory, enumerating the code-compliance

features of the building.

(b) A builder shall retain until the third anniversary of the date on which compliance is achieved the original copy of any documentation that establishes compliance under this section. The builder on receipt of any compliance documentation shall provide a copy to the owner of the building.

(c) A single-family residence built in the unincorporated area of a county the construction of which was completed on or after September 1, 2001, but not later than August 31, 2002, shall be considered in compliance.

SECTION 32. Chapter 388, Health and Safety Code, is amended by adding Sections 388.009 and 388.010 to read as follows:

Sec. 388.009. ENERGY-EFFICIENT BUILDING PROGRAM. (a) In this section, "National Housing Act" means Section 203(b), (i), or (k) of the National Housing Act (12 U.S.C. Sections 1709(b), (i), and (k), as amended.

(b) The General Land Office, in consultation with the laboratory, the commission, and an advisory committee appointed by the General Land Office, may develop an energy-efficient building accreditation program for buildings that exceed the building energy performance standards under Section 388.003 by 15 percent or more.

(c) If the General Land Office adopts a program under this section, the General Land Office, in consultation with the laboratory, shall update the program on or before December 1 of each even-numbered year using the best available energy-efficient building practices.

(d) If the General Land Office adopts a program under this section, the program shall use a checklist system to produce an energy-efficient building scorecard to help:

(1) home buyers compare potential homes and, by providing a copy of the completed scorecard to a mortgage lender, qualify for energy-efficient mortgages under the National Housing Act; and

(2) communities qualify for emissions reduction credits by adopting codes that meet or exceed the energy-efficient building or energy performance standards established under this chapter.

(e) The General Land Office may establish a public information program to inform homeowners, sellers, buyers, and others regarding energy-efficient building ratings.

(f) If the General Land Office adopts a program under this section, the laboratory shall establish a system to measure the reduction in energy and emissions produced under the energy-efficient building program and report those savings to the commission.

Sec. 388.010. OUTREACH TO NEAR-NONATTAINMENT AREAS. The commission shall conduct outreach to near-nonattainment areas and affected counties on the benefits of implementing energy efficiency initiatives, including the promotion of energy-efficient building programs and urban heat island mitigation techniques, as a way to meet air quality attainment goals under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.).

SECTION 33. Chapter 389, Health and Safety Code, is amended by adding Section 389.003 to read as follows:

Sec. 389.003. COMPUTING ENERGY EFFICIENCY EMISSIONS REDUCTIONS. The commission shall develop a method to use in computing emissions reductions obtained through energy efficiency initiatives.

SECTION 34. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.451 to read as follows:

Sec. 2155.451. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) This section applies only to a contract to be performed, wholly or partly, in an affected county, as that term is defined by Section 386.001, Health and Safety Code.

(b) The commission and state agencies procuring goods and services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

SECTION 35. Subchapter Z, Chapter 271, Local Government

Code, is amended by adding Section 271.907 to read as follows:

Sec. 271.907. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) In this section, "governmental agency" has the meaning assigned by the Section 271.003.

(b) This section applies only to a contract to be performed, wholly or partly, in an affected county, as that term is defined by Section 386.001, Health and Safety Code.

(c) A governmental agency procuring goods or services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

SECTION 36. Section 151.0515, Tax Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) In this section, "equipment" includes all off-road, heavy-duty diesel equipment [~~classified as construction equipment~~], other than implements of husbandry used solely for agricultural purposes, including:

- (1) pavers;
- (2) tampers/rammers;
- (3) plate compactors;
- (4) concrete pavers;
- (5) rollers;
- (6) scrapers;
- (7) paving equipment;
- (8) surface equipment;
- (9) signal boards/light plants;
- (10) trenchers;
- (11) bore/drill rigs;
- (12) excavators;
- (13) concrete/industrial saws;
- (14) cement and mortar mixers;
- (15) cranes;

- (16) graders;
- (17) off-highway trucks;
- (18) crushing/processing equipment;
- (19) rough terrain forklifts;
- (20) rubber tire loaders;
- (21) rubber tire tractors/dozers;
- (22) tractors/loaders/backhoes;
- (23) crawler tractors/dozers;
- (24) skid steer loaders;
- (25) off-highway tractors; ~~and~~
- (26) Dumpsters/tenders; and
- (27) mining equipment;

(b) In each county in this state, a surcharge is imposed on the retail sale, lease, or rental of new or used equipment in an amount equal to two ~~one~~ percent of the sale price or the lease or rental amount.

(b-1) In each county in this state, a surcharge is imposed on the storage, use, or other consumption in this state of new or used equipment. The surcharge is at the same percentage rate as is provided by Subsection (b) on the sales price or the lease or rental amount of the equipment.

(c) The surcharge shall be collected at the same time and in the same manner and shall be administered and enforced in the same manner as the tax imposed under this chapter ~~subchapter~~. The comptroller shall adopt any additional procedures needed for the collection, administration, and enforcement of the surcharge authorized by this section and shall deposit all remitted surcharges to the credit of the Texas emissions reduction plan fund.

SECTION 37. Section 152.0215(a), Tax Code, is amended to read as follows:

(a) A surcharge is imposed on every retail sale, ~~[or]~~ lease, or use of every on-road diesel motor vehicle that is over 14,000 pounds ~~[and is of a model year 1996 or earlier]~~ and that is sold, ~~[or]~~ leased, or used in this state. The amount of the surcharge is two ~~[2.5]~~ percent of the total consideration.

SECTION 38. Section 224.153, Transportation Code, amended by adding Subsection (d) to read as follows:

(d) The department may not authorize vehicles addressed in Subsection (c) to use a high occupancy vehicle lane if such use would violate federal transit or highway funding restrictions.

SECTION 39. Sections 501.138(a) and (b), Transportation Code, are amended to read as follows:

(a) An applicant for a certificate of title, other than the state or a political subdivision of the state, must pay the county assessor-collector a fee of: [\$13].

(1) \$33 if the applicant's residence is a county located within a non-attainment area as defined under Section 107(d) of the federal Clean Air Act (U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.01, Health and Safety Code; or

(2) \$25 if the applicant's residence is any other county.

(b) The county assessor-collector shall send:

(1) \$5 of the fee to the county treasurer for deposit in the officers' salary fund; ~~[and]~~

(2) \$8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) The following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) \$20 of the fee if the applicant's residence is a county located within a non-attainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) \$12 of the fee if the applicant's residence is any other county.

(C) Fees collected under this subsection to be sent to the comptroller shall be deposited as follows:

(1) before September 1, 2008, to the credit of the Texas emissions reduction fund; and

(2) after September 1, 2008, to the credit of the Texas Mobility Fund.

SECTION 40. Section 545.353, Transportation Code, is amended by adding Subsection (j) to read as follows:

(j) The commission may not determine or declare, or agree to determine or declare, a prima facie speed limit for environmental purposes on a part of the highway system.

SECTION 41. Section 386.157, Health and Safety Code, and Section 386.159, Health and Safety Code, are repealed.

SECTION 42. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

(b) Sections 24 and 25 of this Act take effect on the first day of the first month beginning on or after the earliest date on which this Act may take effect if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect before September 1, 2003, Sections 24 and 25 of this Act take effect September 1, 2003. The comptroller of public accounts may adopt emergency rules for the implementation of Sections 36 and 37 of this Act.

(c) Section 40 of this Act does not affect speed limits which have been approved by the Transportation Commission prior to the effective date of this Act.