

By: Bonnen, Ritter, Chisum, Luna, Hochberg,
et al.

H.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 382.037(g) and (h), Health and Safety Code, are amended to read as follows:

(g) The commission may not establish[~~, before January 1, 2004,~~] vehicle fuel content standards to provide for vehicle fuel content for clean motor vehicle fuels for any area of the state that are more stringent or restrictive than those standards promulgated by the United States Environmental Protection Agency applicable to that area [~~except as provided in Subsection (h)~~] unless the fuel is specifically authorized by the legislature. The commission may retain fuel standards for gasoline that were in effect before September 1, 2003. Not later than June 1, 2005, the commission may adopt standards for federal ultra-low sulfur diesel vehicle fuel for on-road and off-road use.

(h) The commission may provide incentives for the production and [~~not require the~~] distribution:

(1) of Texas low-emission diesel as described in revisions to the State Implementation Plan for the control of ozone air pollution; and

(2) in the East Texas region as defined by Section 382.05181(c), of cleaner-burning fuels, as provided by Subsection (i) [prior to February 1, 2005].

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

3 (2) "Affected county" includes:

4 (A) Bastrop County;

5 (B) Bexar County;

6 (C) Caldwell County;

7 (D) Comal County;

8 (E) Ellis County;

9 (F) Gregg County;

10 (G) Guadalupe County;

11 (H) Harrison County;

12 (I) Hays County;

13 (J) Henderson County;

14 (K) Hood County;

15 (L) Hunt County;

16 (M) Johnson County;

17 (N) [~~(K)~~] Kaufman County;

18 (O) [~~(L)~~] Nueces County;

19 (P) [~~(M)~~] Parker County;

20 (Q) [~~(N)~~] Rockwall County;

21 (R) [~~(O)~~] Rusk County;

22 (S) [~~(P)~~] San Patricio County;

23 (T) [~~(Q)~~] Smith County;

24 (U) [~~(R)~~] Travis County;

25 (V) [~~(S)~~] Upshur County;

26 (W) [~~(T)~~] Victoria County;

27 (X) [~~(U)~~] Williamson County; [~~and~~]

1 (Y) [~~(V)~~] Wilson County; and
2 (Z) any other county designated as an affected
3 county by commission rule because of deteriorating air quality.

4 SECTION 3. Section 386.053(d), Health and Safety Code, is
5 amended to read as follows:

6 (d) The commission may propose revisions to the guidelines
7 and criteria adopted under this section as necessary to improve the
8 ability of the plan to achieve its goals. Revisions may include,
9 among other changes, adding additional pollutants, adding
10 stationary engines or engines used in stationary applications,
11 adding vehicles and equipment that use fuels other than diesel, or
12 adjusting eligible program categories, as appropriate, to ensure
13 that incentives established under this chapter achieve the maximum
14 possible emissions reductions. The commission shall make a
15 proposed revision available to the public before the 45th day
16 preceding the date of final adoption of the revision and shall hold
17 at least one public meeting to consider public comments on the
18 proposed revision before final adoption.

19 SECTION 4. Sections 386.058(a) and (b), Health and Safety
20 Code, are amended to read as follows:

21 (a) The Texas Emissions Reduction Plan Advisory Board
22 consists of 17 [~~15~~] members appointed as provided by this section
23 and seven ex officio members as provided by this section.

24 (b) The governor shall appoint to the advisory board:

25 (1) a representative of the trucking industry;

26 (2) a representative of the air conditioning
27 manufacturing industry;

- 1 (3) a representative of the electric utility industry;
2 (4) a representative of regional transportation;
3 ~~[and]~~
4 (5) a representative of the Texas Council on
5 Environmental Technology;
6 (6) a representative of municipal government from a
7 serious nonattainment area; and
8 (7) a representative of a transportation authority
9 from a serious nonattainment area.

10 SECTION 5. Sections 386.101(6) and (9), Health and Safety
11 Code, are amended to read as follows:

12 (6) "On-road diesel" means an on-road diesel-powered
13 motor vehicle that has a gross vehicle weight rating of greater than
14 8,500 ~~[10,000]~~ pounds ~~[or more]~~.

15 (9) "Repower" means to replace an old engine powering
16 an on-road or non-road diesel with a new engine, a used engine, an
17 original equipment manufacturer's remanufactured engine, or
18 electric motors, drives, or fuel cells~~[+~~

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

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

26 ~~[(C) an engine manufactured before 1988 that~~
27 ~~emits not more than 50 percent of the oxides of nitrogen emissions~~

1 ~~standard emitted by a new engine certified to the baseline oxides of~~
2 ~~nitrogen emissions standard for that engine; or~~
3 ~~[(D) electric motors, drives, or fuel cells].~~

4 SECTION 6. Section 386.102(b), Health and Safety Code, is
5 amended to read as follows:

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

- 8 (1) purchase or lease of on-road or non-road diesels;
- 9 (2) emissions-reducing retrofit projects for on-road
10 or non-road diesels;
- 11 (3) emissions-reducing repower projects for on-road
12 or non-road diesels;
- 13 (4) purchase and use of emissions-reducing add-on
14 equipment for on-road or non-road diesels;
- 15 (5) development and demonstration of practical,
16 low-emissions retrofit technologies, repower options, and advanced
17 technologies for on-road or non-road diesels with lower emissions
18 of oxides of nitrogen;
- 19 (6) purchase and use of qualifying fuel; ~~and~~
- 20 (7) implementation of infrastructure projects;
- 21 (8) production and distribution of a fuel as provided
22 by Section 382.037(h); and
- 23 (9) replacement of on-road or non-road diesels with
24 newer on-road or non-road diesels.

25 SECTION 7. Section 386.103(a), Health and Safety Code, is
26 amended to read as follows:

27 (a) Any person as defined by Section 382.003 that owns one

1 or more on-road or non-road diesels that operate primarily within a
2 nonattainment area or affected county of this state or that
3 otherwise contributes to the state inventory of emissions of oxides
4 of nitrogen may apply for a grant under the program. The commission
5 may adopt guidelines to allow a person other than the owner to apply
6 for and receive a grant in order to improve the ability of the
7 program to achieve its goals.

8 SECTION 8. Sections 386.104(a) and (f), Health and Safety
9 Code, are amended to read as follows:

10 (a) The commission shall establish criteria for setting
11 priorities for projects eligible to receive grants under this
12 subchapter. The commission shall review and may modify the
13 criteria and priorities as appropriate. The commission shall give
14 preference to an applicant that is a political subdivision or that
15 contracts for services with a political subdivision. If a person
16 that contracts for service with a political subdivision receives a
17 grant under this subchapter, the person may spend the grant money
18 only for equipment or a vehicle used to carry out the contract with
19 the political subdivision.

20 (f) A proposed retrofit, repower, replacement, or add-on
21 equipment project must document, in a manner acceptable to the
22 commission, a reduction in emissions of oxides of nitrogen of at
23 least 30 percent compared with the baseline emissions adopted by
24 the commission for the relevant engine year and application. After
25 study of available emissions reduction technologies, after public
26 notice and comment, and after consultation with the advisory board,
27 the commission may revise the minimum percentage reduction in

1 emissions of oxides of nitrogen required by this subsection to
2 improve the ability of the program to achieve its goals.

3 SECTION 9. Section 386.105, Health and Safety Code, is
4 amended by adding Subsection (e) to read as follows:

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

10 SECTION 10. Section 386.106(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) Except as provided by Section 386.107 and except for
13 infrastructure purchases that are part of a broader retrofit,
14 repower, replacement, or add-on equipment project, the commission
15 may not award a grant for a proposed project the cost-effectiveness
16 of which, calculated in accordance with Section 386.105 and
17 criteria developed under that section, exceeds \$13,000 per ton of
18 oxides of nitrogen emissions reduced in the nonattainment area or
19 affected county for which the project is proposed. This subsection
20 does not restrict commission authority under other law to require
21 emissions reductions with a cost-effectiveness that exceeds
22 \$13,000 per ton.

23 SECTION 11. Section 386.109, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. The
26 commission may consider for funding under Section 386.108:

27 (1) the purchase and installation at a site of

1 equipment that is designed primarily to dispense qualifying fuel,
2 other than standard gasoline or diesel, or the purchase of on-site
3 mobile fueling equipment;

4 (2) infrastructure projects, including auxiliary
5 power units, designed to dispense electricity to motor vehicles and
6 on-road and non-road diesels; ~~and~~

7 (3) a project that involves a technology that allows a
8 vehicle to replace with electric power, while the vehicle is
9 parked, the power normally supplied by the vehicle's internal
10 combustion engine;

11 (4) a project that involves:

12 (A) car pooling, van pooling, telecommuting, or
13 other workforce programs designed to reduce traffic congestion; and

14 (B) technology and software that track the
15 resulting reductions in vehicle miles traveled; and

16 (5) a project that involves technology and software
17 that monitor in real time the use of alternative fuels or vehicle
18 add-ons.

19 SECTION 12. Section 386.112(b), Health and Safety Code, is
20 amended to read as follows:

21 (b) The program shall authorize statewide incentives for
22 the reimbursement of incremental costs for the purchase or lease,
23 according to the schedule provided by Section 386.113, of new
24 on-road diesels that are certified by the United States
25 Environmental Protection Agency or the California Air Resources
26 Board to an emissions standard provided by Section 386.113 if the
27 purchaser or lessee of the on-road diesel agrees to register the

1 vehicle in this state and to operate the on-road diesel in this
2 state for not less than 75 percent of the on-road diesel's annual
3 mileage.

4 SECTION 13. Subchapter C, Chapter 386, Health and Safety
5 Code, is amended by adding Sections 386.115 and 386.116 to read as
6 follows:

7 Sec. 386.115. MODIFICATION OF VEHICLE ELIGIBILITY. After
8 evaluating the availability of vehicles meeting the emissions
9 standards and after public notice and comment, the commission, in
10 consultation with the advisory board, may expand the program to
11 include other on-road vehicles, regardless of fuel type used, that
12 meet the emissions standards, have a gross vehicle weight rating of
13 greater than 8,500 pounds, and are purchased or leased in lieu of a
14 new on-road diesel.

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

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

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

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

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

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

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

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

8 SECTION 14. Section 386.205, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 386.205. EVALUATION OF STATE ENERGY EFFICIENCY
11 PROGRAMS. (a) In cooperation with the laboratory, the utility
12 commission shall provide an annual report to the commission that,
13 by county, quantifies the reductions of energy demand, peak loads,
14 and associated emissions of air contaminants achieved from the
15 programs implemented under this subchapter and from those
16 implemented under Section 39.905, Utilities Code.

17 (b) The commission shall compute energy efficiency credits
18 based on the energy savings incentive programs under Section
19 39.905, Utilities Code.

20 (c) The commission shall include the new energy efficiency
21 credits described by Subsection (b) in the state implementation
22 plan.

23 SECTION 15. Section 386.252(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) Money in the fund may be used only to implement and
26 administer programs established under the plan and shall be
27 allocated as follows:

1 (1) for the diesel emissions reduction incentive
2 program, 87.5 [~~72~~] percent of the money in the fund, of which not
3 less [~~more~~] than five [~~three~~] percent shall [~~may~~] be used for
4 programs implemented by political subdivisions [~~infrastructure~~
5 ~~projects~~] and not more than 10 percent may be used for on-road
6 diesel purchase or lease incentives;

7 (~~2~~) [~~for the motor vehicle purchase or lease incentive~~
8 ~~program, 15 percent of the money in the fund;~~

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

11 [~~(4)~~] for the new technology research and development
12 program, 9.5 [~~7.5~~] percent of the money in the fund, of which up to
13 \$250,000 is allocated for administration, up to \$200,000 is
14 allocated for a health effects study, [~~and~~] \$500,000 is to be
15 deposited in the state treasury to the credit of the clean air
16 account created under Section 382.0622 to supplement funding for
17 air quality planning activities in affected counties, and not less
18 than 20 percent is to be allocated each year to support research
19 related to air quality for the Houston-Galveston-Brazoria and
20 Dallas-Fort Worth nonattainment areas by a nonprofit organization
21 based in Houston;

22 (3) notwithstanding Subdivisions (1) and (2), for the
23 energy efficiency grant program, any available money that remains
24 in the fund after other programs established under the plan are
25 fully funded; and

26 (4) [~~(5)~~] for administrative costs incurred by the
27 utility commission, the commission, the comptroller, and the

1 laboratory, three percent.

2 SECTION 16. Subchapter F, Chapter 386, Health and Safety
3 Code, is amended by adding Section 386.253 to read as follows:

4 Sec. 386.253. TEMPORARY FEE ON DELIVERY OF UNDYED DIESEL
5 FUEL. (a) In this section, "bulk facility," "cargo tank," and
6 "withdrawal from bulk" have the meanings assigned by Section
7 26.3574, Water Code.

8 (b) The legislature finds that diesel engines emit
9 compounds that contribute to the formation of ozone in amounts that
10 require reduction to meet mandatory federal clean air standards in
11 regions of this state. The legislature declares that it is the
12 policy of this state and the purpose of this section to reduce the
13 amount of ozone precursor chemicals created by diesel engines in
14 areas that currently do not meet, or soon may not meet, mandatory
15 federal clean air standards for ozone and to require the use of
16 reasonable methods to implement this policy.

17 (c) A temporary fee is imposed on the delivery of undyed
18 diesel fuel on withdrawal from bulk of that fuel as provided by this
19 subsection. Each operator of a bulk facility on withdrawal from
20 bulk of undyed diesel fuel shall collect from the person who orders
21 the withdrawal a temporary fee in an amount determined as follows:

22 (1) \$75 for each delivery into a cargo tank having a
23 capacity of less than 2,500 gallons;

24 (2) \$150 for each delivery into a cargo tank having a
25 capacity of 2,500 gallons or more but less than 5,000 gallons;

26 (3) \$225 for each delivery into a cargo tank having a
27 capacity of 5,000 gallons or more but less than 8,000 gallons;

1 (4) \$300 for each delivery into a cargo tank having a
2 capacity of 8,000 gallons or more but less than 10,000 gallons; and

3 (5) \$150 for each increment of 5,000 gallons or any
4 part of those gallons delivered into a cargo tank having a capacity
5 of 10,000 gallons or more.

6 (d) The temporary fee is in addition to and shall be
7 administered, reported, collected, and enforced in the same manner
8 as the fee imposed under Section 26.3574, Water Code, except that a
9 person who has a permit issued under Section 26.3574, Water Code, is
10 not required to obtain an additional permit under this section.

11 (e) The comptroller shall deduct two percent of the amount
12 collected under this section as the state's charge for its services
13 and shall credit that amount to the general revenue fund. The
14 balance of the temporary fees and the penalties and interest
15 collected by the comptroller under this section shall be deposited
16 to the credit of the Texas emissions reduction plan fund.

17 (f) Money deposited under this section to the credit of the
18 Texas emissions reduction plan fund may be used only to fund the
19 diesel emissions reduction incentive program under Subchapter C.

20 SECTION 17. Section 388.003, Health and Safety Code, is
21 amended by amending Subsection (d) and adding Subsections (i), (j),
22 and (k) to read as follows:

23 (d) A municipality or county may establish procedures to
24 adopt:

25 (1) local amendments to the International Energy
26 Conservation Code and the energy efficiency chapter of the
27 International Residential Code; or

1 (2) local building codes that meet or exceed the green
2 building standards under Section 388.009.

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

6 (j) As required by Section 389.002, the commission shall
7 report the energy savings identified under Subsection (e)(2) to the
8 United States Environmental Protection Agency and shall
9 periodically revise the state implementation plan to reflect the
10 emissions reductions achieved.

11 (k) The commission, by rule, shall designate a method by
12 which a municipality, county, builder, or other person can
13 estimate:

14 (1) the energy savings and emissions reductions that
15 would be generated by the adoption of a code, the implementation of
16 a standard under this chapter, or the construction of a project that
17 implements the code or standards; and

18 (2) the emissions reduction credits that the
19 municipality or county could accrue toward attainment under the
20 state implementation plan as reported by the commission under
21 Section 389.002.

22 SECTION 18. Section 388.004, Health and Safety Code, is
23 amended to read as follows:

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

27 (1) a building certified by a national, state, or

1 local accredited energy efficiency program shall be considered in
2 compliance;

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

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

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

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

20 SECTION 19. Chapter 388, Health and Safety Code, is amended
21 by adding Sections 388.009 and 388.010 to read as follows:

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

26 (b) The General Land Office, in consultation with the
27 laboratory, the commission, and an advisory committee appointed by

1 the General Land Office, may develop a green building accreditation
2 program for buildings that exceed the building energy performance
3 standards under Section 388.003 by 15 percent or more.

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

9 (d) If the General Land Office adopts a program under this
10 section, the program shall use a checklist system to produce a green
11 building scorecard to help:

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

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

19 (e) If the General Land Office adopts a program under this
20 section, the General Land Office shall base green building
21 standards for commercial buildings on federal agency programs.

22 (f) The General Land Office may establish a public
23 information program to inform homeowners, sellers, buyers, and
24 others regarding green building ratings.

25 (g) If the General Land Office adopts a program under this
26 section, the laboratory shall establish a system to measure the
27 reduction in energy and emissions produced under the green building

1 program and report those savings to the commission.

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

9 SECTION 20. Chapter 389, Health and Safety Code, is amended
10 by adding Section 389.003 to read as follows:

11 Sec. 389.003. COMPUTING ENERGY EFFICIENCY CREDITS. The
12 commission shall develop a method to use in computing the credits
13 received for emissions reductions obtained through energy
14 efficiency initiatives.

15 SECTION 21. Subchapter H, Chapter 2155, Government Code, is
16 amended by adding Section 2155.451 to read as follows:

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

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

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

27 (2) require that a vendor demonstrate that the vendor

1 meets or exceeds any state or federal environmental standards,
2 including voluntary standards, relating to air quality.

3 SECTION 22. Subchapter Z, Chapter 271, Local Government
4 Code, is amended by adding Section 271.907 to read as follows:

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

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

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

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

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

19 SECTION 23. Section 151.0515, Tax Code, is amended by
20 amending Subsections (a), (b), and (c) and adding Subsection (b-1)
21 to read as follows:

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

- 26 (1) pavers;
27 (2) tampers/rammers;

- 1 (3) plate compactors;
- 2 (4) concrete pavers;
- 3 (5) rollers;
- 4 (6) scrapers;
- 5 (7) paving equipment;
- 6 (8) surface equipment;
- 7 (9) signal boards/light plants;
- 8 (10) trenchers;
- 9 (11) bore/drill rigs;
- 10 (12) excavators;
- 11 (13) concrete/industrial saws;
- 12 (14) cement and mortar mixers;
- 13 (15) cranes;
- 14 (16) graders;
- 15 (17) off-highway trucks;
- 16 (18) crushing/processing equipment;
- 17 (19) rough terrain forklifts;
- 18 (20) rubber tire loaders;
- 19 (21) rubber tire tractors/dozers;
- 20 (22) tractors/loaders/backhoes;
- 21 (23) crawler tractors/dozers;
- 22 (24) skid steer loaders;
- 23 (25) off-highway tractors; ~~and~~
- 24 (26) Dumpsters/tenders;
- 25 (27) mining equipment; and
- 26 (28) drilling equipment used in drilling an oil, gas,
- 27 or water well.

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

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

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

18 SECTION 24. Section 224.153, Transportation Code, is
19 amended by adding Subsection (d) to read as follows:

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

23 SECTION 25. Section 545.353, Transportation Code, is
24 amended by adding Subsection (j) to read as follows:

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

1 SECTION 26. Not later than December 1, 2003, the Texas
2 Commission on Environmental Quality:

3 (1) shall adopt rules needed to implement Sections
4 388.010 and 389.003, Health and Safety Code, as added by this Act;
5 and

6 (2) shall develop a method for computing energy
7 efficiency credits, as required by Section 389.003, Health and
8 Safety Code, as added by this Act.

9 SECTION 27. (a) The Texas Commission on Environmental
10 Quality shall compose a report that identifies the emissions
11 reduction strategies likely to be required to achieve the
12 eight-hour ozone standard component of the National Ambient Air
13 Quality Standards throughout this state.

14 (b) The Texas Commission on Environmental Quality shall
15 submit the report to the governor, the lieutenant governor, and the
16 speaker of the house of representatives on the earlier of the
17 following dates:

18 (1) January 1, 2004; or

19 (2) the date on which the commission proposes a
20 mid-course review state implementation plan for the one-hour ozone
21 component of the National Ambient Air Quality Standards for the
22 Houston-Galveston nonattainment area or the Dallas-Fort Worth
23 nonattainment area.

24 SECTION 28. This Act takes effect on the first day of the
25 first month beginning on or after the earliest date on which this
26 Act may take effect if it receives a vote of two-thirds of all the
27 members elected to each house, as provided by Section 39, Article

1 III, Texas Constitution. If this Act does not receive the vote
2 necessary for effect before September 1, 2003, this Act takes
3 effect September 1, 2003. The comptroller of public accounts may
4 adopt emergency rules for the implementation of this Act.

5 SECTION 29. The expiration of Section 386.253, Health and
6 Safety Code, as added by this Act, does not affect a fee imposed or
7 an obligation incurred before the date on which that provision
8 expires. A fee imposed or an obligation incurred before the
9 expiration of that provision is governed by the law in effect on the
10 date the fee was imposed or the obligation was incurred, and that
11 law is continued in effect for purposes of the liability for and
12 collection of that fee or obligation.

13 SECTION 30. Not later than the first anniversary of the
14 effective date of this Act, the Texas Commission on Environmental
15 Quality shall develop a method for computing energy efficiency
16 credits as required by Section 386.205(b), Health and Safety Code,
17 as added by this Act.