

By: Noriega

H.B. No. 3447

A BILL TO BE ENTITLED

AN ACT

relating to port control of vehicle emissions.

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

SECTION 1. Chapter 382, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PORT AIR QUALITY PROGRAM

Section 382.251. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Peak commuter hours" means those hours determined by the commission in consultation with the owners and operators of the port or navigation district and any labor union that is represented at the port or navigation district.

Section 382.252. PORT AIR QUALITY PROGRAM. (a) Each port or navigation district shall operate in a manner that does not cause the engines of diesel trucks to idle or queue for more than 30 minutes while waiting to enter a port or navigation district.

(b) A port or navigation district that fails to operate in the manner required by subsection (a) is liable to the state for a civil penalty in the amount of \$250 for each truck that idles or queues for more than 30 minutes while waiting to enter the port or navigation district.

(c) In addition, any port or navigation district that takes action intended to avoid or circumvent the requirements of this

1 Subchapter or to avoid or circumvent the reduction of emissions of
2 particulate matter from idling or queuing trucks is liable to the
3 state for a civil penalty in the amount of \$750.

4 (d) Actions intended to avoid or circumvent the
5 requirements of this Subchapter include:

6 (1) diverting an idling truck to a area highways or
7 alternate staging areas;

8 (2) requiring a truck to idle or queue inside the gate
9 of a port or navigation district; or

10 (3) requiring or directing a truck driver to turn on
11 and off an engine while queuing.

12 (e) A port or navigation district does not violate the
13 provisions of this Subchapter by causing a truck required to idle or
14 queue for more than 30 minutes while waiting to enter the gate into
15 a port or navigation district, if the delay is caused by:

16 (1) inclement weather;

17 (2) labor disputes;

18 (3) declared state and federal emergencies; or

19 (4) if the Commission finds that an unavoidable or
20 unforeseeable event caused trucks to idle and that the port or
21 navigation district is otherwise in good faith compliance with the
22 Subchapter.

23 Section 382.253. EXEMPTIONS (a) Sections 382.252 (a) and
24 (b) do not apply to ports or navigation districts that provide two
25 continuous hours of uninterrupted, fully staffed receiving and
26 delivery gates two hours prior to and after peak commuter hours each
27 day, at least five days per week. The Commission shall notify a

1 port or navigation district of the final determination of the peak
2 commuter hours.

3 (b) Sections 382.252 (a) and (b) do not apply to ports or
4 navigation districts that operate fully staffed receiving and
5 delivery gates for 70 or more hours, five days per week.

6 (c) To qualify under Subsections (a) or (b), a port or
7 navigation district must notify the Commission the date of
8 implementation of the above-described measure. The port or
9 navigation district remains subject to the subchapter until the
10 date of implementation of such measure.

11 Section 382.254. ENFORCEMENT. (a) A port or navigation
12 district shall be monitored by the Commission to ensure compliance
13 with this Subchapter.

14 (b) Failure to pay a civil penalty, or receipt of 3 or more
15 civil penalties during a 3 month period, shall result in a civil
16 penalty of \$2000 payable to the state.

17 Section 382.255. RULES. (a) The commission shall adopt
18 such rules and regulations necessary to administer this Subchapter
19 as added by this Act.

20 (b) The commission shall determine the necessary level of
21 monitoring and enforcement commensurate with the level of the truck
22 idling problem at each port or navigation district, and adopt rules
23 necessary to carry out the purpose of reducing emissions of
24 particulate matter from idling or queuing trucks intended by this
25 Subchapter.

26 SECTION 2. This Act takes effect September 1, 2003.