

BILL ANALYSIS

C.S.H.B. 2793
By: Bonnen
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Convenience switches are used in vehicles to automatically switch the lights when the hood or trunk lights are opened. These switches can contain mercury as a part of their mechanism. Automakers ended their use of mercury convenience switches in 2003, but switches in older motor vehicles are still a source of mercury contamination. The presence of the mercury is of particular concern when vehicles are recycled. The mercury can enter the atmosphere when vehicles are shredded and melted in steel mills.

Due to concerns about the health and environmental effects of mercury emissions resulting from the melting of convenience switches and other vehicle components, the U.S. Environmental Protection Agency (EPA) is in the process of promulgating regulations to restrict mercury emissions from steel manufacturers. The EPA is developing compliance options that focus on removing the mercury components before the vehicle is destroyed and melted. One such method is to have vehicle recyclers remove the convenience switches during their normal process of disassembling the vehicle.

C.S.H.B. 2793 sets forth a program for recovering and recycling convenience switches. Under certain conditions, the bill also allows for the payment of incentives for the removal of convenience switches.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTIONS 1 and 3 of this bill.

ANALYSIS

C.S.H.B. 2793 amends the Health & Safety Code to set forth Chapter 375, "Removal of Convenience Switches." The bill requires each manufacturer of vehicles sold in this state, individually or as part of a group to implement a convenience switch recovery program. The bill sets forth the required components of a convenience switch recovery program. The bill requires a vehicle recycler to remove all convenience switches identified in the convenience switch recovery program.

The chapter only applies to a manufacturer of vehicles that contain or contained convenience switches and a vehicle recycler or scrap metal recycling facility. The requirements of this chapter do not apply to a manufacturer that has not installed a convenience switch in the last ten years. The chapter expires August 31, 2015.

The bill sets forth the purposes of the chapter. The bill authorizes the TCEQ to amend procedures adopted to implement the chapter to include additional program elements under specified conditions.

The bill requires each manufacturer to pay the costs of packaging, shipping, and recycling of convenience switches. The bill requires each manufacturer to provide financing for the costs of educational materials required by this chapter. The bill requires each manufacturer to pay for and provide storage containers to each vehicle recycler and scrap metal recycling facility.

If the attorney general certifies that an incentive is required for federal approval of the state's convenience switch recovery program, the bill requires the TCEQ to pay a \$2 compliance bonus

fee to a recycler or scrap metal facility for each convenience switch collected. The bill creates a convenience switch recovery account. The account consists of penalties collected under these provisions, appropriations by the Legislature, grants and gifts to the account, interest earned, and transfers of unexpended money from the Texas Emissions Reduction Plan fund not to exceed \$24 million. The bill prohibits the TCEQ from spending more than \$3 million annually for the payment of compliance bonus fees and associated administrative costs.

The bill requires vehicle recyclers or scrap metal recycling facilities to maintain records relating to the convenience switch recovery plan. The bill prohibits the TCEQ from requiring a vehicle recycler or scrap metal recycling facility to undertake any action beyond those reasonably arising from the obligation created under this chapter. The bill prohibits a person from representing that a convenience switch has been removed if that person has not removed the convenience switch or unless the person has good cause to believe that another person has removed the convenience switch. The bill provides that a scrap metal recycling facility or other person that acquires scrap metal is not considered to be in violation of these provisions solely because a convenience switch is found in the scrap metal after acquisition. The bill sets forth provisions relating to the handling of convenience switches.

The bill requires annual implementation reports from the TCEQ and each manufacturer. The bill sets forth provisions relating to these reports.

The bill provides that it is a violation for a vehicle recycler or scrap metal recycling facility to bring a convenience switch into this state that was removed from a motor vehicle outside this state for the purpose of receiving compensation from the TCEQ.

The bill requires the TCEQ to adopt rules by March 1, 2006 for regulating a convenience switch as universal waste. The bill requires manufacturers to provide containers for removed switched 60 days after the effective date of this Act.

EFFECTIVE DATE

If this Act does not receive the vote necessary for immediate effect, this Act takes effect August 29, 2005.

COMPARISON OF SUBSTITUTE TO ORIGINAL

The substitute conforms the bill to Legislative Council drafting format and style.

The substitute adds a definition of "eligible vehicle". The substitute exempts from the chapter, manufacturers that last installed a convenience switch ten years ago. The substitute expires the chapter August 31, 2015. The substitute sets a deadline of January 1, 2006 for the implementation of the convenience switch recovery program. The substitute removes provisions that require the manufacturer to develop a program in consultation with the TCEQ. The substitute removes provisions that set forth a plan approval process. The substitute removes the requirement that a program include a system for marking vehicles for the absence of a convenience switch. The substitute provides that the number of convenience switches included in the program is an estimated number.

The substitute provides that if the attorney general certifies that an incentive is required for federal approval of the state's convenience switch recovery program, the TCEQ is required to pay a \$2 compliance bonus fee to a recycler or scrap metal facility for each convenience switch collected. The substitute creates a convenience switch recovery account. The substitute provides that it is a violation for a vehicle recycler or scrap metal recycling facility to bring a convenience switch into this state that was removed from a motor vehicle outside this state for the purpose of receiving compensation from the TCEQ.

The substitute authorizes manufacturers to implement a program as a part of a group. The substitute removes provisions relating to the financing of costs by manufacturers. The substitute removes provisions relating to costs of record maintenance. The substitute removes provisions relating to fee increases as needed. The substitute amends provisions relating to costs of educational materials. The substitute removes provisions relating to the indemnification of

vehicle and scrap metal recycling facilities. The substitute amends the Texas Emissions Reduction Plan (TERP) statute to provide for the financing of a convenience switch recovery plan from the unexpended balance of TERP funds. The substitute requires manufacturers to pay for, in addition to provide, storage containers for removed switches.

The substitute sets forth the purposes of the chapter. The substitute authorizes the TCEQ to amend procedures adopted to implement the chapter to include additional program elements under specified conditions.

The substitute amends the requirements relating to vehicle recycler and scrap metal recycling facility records.

The substitute requires the TCEQ to publish an annual implementation report. The substitute amends the required components of the implementation report. The substitute removes from the implementation report the summary of the amounts paid to cover the costs of implementing the convenience switch recovery plan. The substitute amends provisions relating to the manufacturer implementation report. The substitute removes the requirement for a manufacturer's design report.

The substitute removes provisions that set forth a date for the TCEQ to notify manufacturers of the need to submit a convenience switch recovery plan and the deadline for submission of that plan.

The substitute removes provisions relating to credits under this chapter towards an emissions trading program. The substitute grants the TCEQ authority to amend procedures, while the original bill authorized the TCEQ to allow new plans for the removal of convenience switches.