

Suspending limitations on conference committee
jurisdiction, H.B. No. 2793 (Bonnen/Jackson)

By: Bonnen

H.R. No. 2249

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 79th Legislature, Regular Session, 2005, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on House Bill No. 2793, relating to the
6 removal and collection of convenience switches from motor vehicles,
7 to consider and take action on the following matters:

8 (1) House Rule 13, Sections 9(a)(1) and (2) are suspended to
9 permit the committee to change "375.004" to "375.003" in newly
10 added Subchapter A of Chapter 375, Health and Safety Code, and to
11 omit added Section 375.003, Health and Safety Code:

12 Sec. 375.003. PURPOSE; COMMISSION AUTHORITY TO AMEND
13 PROCEDURES. (a) It is the purpose of this chapter to establish a
14 convenience switch recovery program for this state that is
15 recognized by the United States Environmental Protection Agency as
16 a method of compliance with regulations promulgated under Section
17 112 of the federal Clean Air Act (42 U.S.C. Section 7412) to the
18 extent that the regulations recognize state convenience switch
19 recovery programs as a method of compliance.

20 (b) Consistent with the purpose expressed in Subsection
21 (a), the commission may amend procedures adopted to implement this
22 chapter to include additional program elements paid for from the
23 convenience switch recovery account established under Section
24 375.251 if, after January 1, 2007, the attorney general certifies

1 that the state will not have a recognized program without
2 implementing those additional elements based on:

3 (1) information included in the annual implementation
4 report required under Section 375.151; and

5 (2) a final written guidance document or rule,
6 including a preamble to the guidance document or rule, developed
7 for Section 112 of the federal Clean Air Act (42 U.S.C. Section
8 7412) and provided by the United States Environmental Protection
9 Agency.

10 Explanation: This change is necessary to eliminate the
11 purpose statement for the chapter and the authority of the
12 commission to amend program procedures.

13 (2) House Rule 13, Section 9(a)(1) is suspended to permit
14 the committee to change added Section 375.101, Health and Safety
15 Code to read as follows:

16 Sec. 375.101. REMOVAL AND MANAGEMENT OF CONVENIENCE
17 SWITCHES. (a) A vehicle recycler or scrap metal recycling facility
18 that removes convenience switches from eligible vehicles in
19 accordance with educational materials received under this chapter
20 shall be provided regulatory incentives by the commission under
21 programs implemented pursuant to Section 5.755, Water Code,
22 including on-site technical assistance and compliance history
23 classification adjustments.

24 (b) In order to qualify for the regulatory incentives
25 provided by this Section, a vehicle recycler or scrap metal
26 recycling facility must submit a report to the commission by
27 November 15 of each year documenting:

1 (1) the number of convenience switches collected
2 during the prior 12 months; and

3 (2) the total number of eligible vehicles processed
4 for recycling during the same time period.

5 (c) Nothing in this chapter shall be construed to require
6 scrap metal recycling facilities or vehicle recyclers to remove
7 convenience switches or maintain records regarding convenience
8 switches they have not removed, and the commission shall not
9 promulgate regulations that create such requirements.

10 Explanation: This change is necessary in order for the
11 convenience switch recovery program to be implemented as a
12 voluntary program.

13 (3) House Rule 13, Section 9(a)(2) is suspended to permit
14 the committee to omit the following Sections from newly added
15 Chapter 375, Health and Safety Code that were included in both the
16 house and senate versions:

17 Sec. 375.102. VEHICLE RECYCLER AND SCRAP METAL RECYCLING
18 FACILITY RECORDS. (a) A vehicle recycler or scrap metal recycling
19 facility that removes convenience switches under Section 375.101
20 shall maintain records documenting:

21 (1) the number of convenience switches collected;

22 (2) the total number of end-of-life vehicles processed
23 for recycling; and

24 (3) the number of convenience switches that were
25 inaccessible because of damage to the end-of-life vehicle.

26 (b) A vehicle recycler that removes convenience switches
27 shall note on the inventory receipt for surrendered certificates of

1 title or other evidence of ownership required to be maintained
2 under Chapter 2302, Occupations Code, the following additional
3 information:

4 (1) whether a vehicle for which title or other
5 evidence of ownership was surrendered was an eligible vehicle; and

6 (2) a certification that all identified convenience
7 switches were recovered and placed in containers specified by the
8 applicable convenience switch recovery program.

9 Sec. 375.103. LIMITATION ON DUTIES OF VEHICLE RECYCLER OR
10 SCRAP RECYCLING FACILITY. (a) The commission may not require a
11 vehicle recycler or scrap metal recycling facility to undertake any
12 action beyond the actions reasonably arising from obligations
13 created under this chapter.

14 (b) A summary of the records required under Section 375.102
15 must be reported to the commission by September 1 of each year.

16 Sec. 375.104. HONEST CONVEYANCE; RECEIPT OF VEHICLE. (a) A
17 person may not represent that a convenience switch has been removed
18 from an end-of-life vehicle being conveyed for recycling or other
19 processing unless that person:

20 (1) removed the convenience switch; or

21 (2) has good cause to believe that another person
22 removed the convenience switch.

23 (b) A scrap metal recycling facility or other person that
24 acquires scrap metal, including scrap metal in the form of an
25 intentionally flattened, crushed, shredded, or baled vehicle, is
26 not considered to be in violation of this subchapter solely because
27 a convenience switch is found in the scrap metal after acquisition.

1 Explanation: This change is necessary to eliminate language
2 governing recordkeeping requirements and other obligations of
3 vehicle recyclers and scrap metal recycling facilities and to make
4 other conforming changes necessary to implement the convenience
5 switch recovery program as a voluntary program.

6 (4) House Rule 13, Section 9(a)(1) is suspended to permit
7 the committee to change added Section 375.151(a), Health and Safety
8 Code to read as follows:

9 Sec. 375.151. ANNUAL IMPLEMENTATION REPORT. (a) On or
10 before December 31 of each year, the commission shall:

11 (1) publish a report that documents the capture rate
12 achieved through the implementation of this chapter; and

13 (2) issue recommendations to the governor, the
14 lieutenant governor, the speaker of the house of representatives,
15 and the chair of each standing committee of the legislature with
16 jurisdiction over environmental issues, which identifies
17 legislative action that may be appropriate to improve the capture
18 rate referenced in Subsection (a)(1) while promoting vehicle
19 recycling and preventing the export of scrap metal from the state.

20 Explanation: This change is necessary to change the
21 reporting requirements to reflect the implementation of the
22 convenience switch recovery program as a voluntary program and the
23 elimination of the mandatory recordkeeping requirements for
24 vehicle recyclers and scrap metal recycling facilities.

25 (5) House Rule 13, Section 9(a)(1), is suspended to permit
26 the committee to change "January" to "November" and "calendar year"
27 to "12 months" in added Section 375.152, Health and Safety Code.

1 Explanation: This change is necessary to ensure that the
2 annual manufacturer's report is provided to the commission before
3 the commission is required to publish its annual implementation
4 report.

5 (6) House Rule 13, Section 9(a)(1) is suspended to permit
6 the committee to omit the following language from newly added
7 Chapter 375, Health and Safety Code, that was included in both the
8 house and senate versions:

9 SUBCHAPTER E. PENALTIES AND ENFORCEMENT

10 Sec. 375.201. PENALTIES AND ENFORCEMENT. A person who
11 violates a provision of this chapter, or a rule or order issued
12 under this chapter, is subject to the penalty and enforcement
13 provisions of Chapter 7, Water Code.

14 Explanation: This change is necessary as a conforming change
15 to reflect the implementation of the convenience switch recovery
16 program as a voluntary program.

17 (7) House Rule 13, Section 9(a)(2) is suspended to permit
18 the committee to omit the following section of the bill amending
19 Section 386.252, Health and Safety Code, which was included in both
20 the house and senate versions:

21 SECTION 2. Section 386.252, Health and Safety Code, is
22 amended by amending Subsection (a) and adding Subsection (c) to
23 read as follows:

24 (a) Except as provided by Subsection (c), money [~~Money~~] in
25 the fund may be used only to implement and administer programs
26 established under the plan and shall be allocated as follows:

27 (1) for the diesel emissions reduction incentive

1 program, 87.5 percent of the money in the fund, of which not more
2 than 10 percent may be used for on-road diesel purchase or lease
3 incentives;

4 (2) for the new technology research and development
5 program, 9.5 percent of the money in the fund, of which up to
6 \$250,000 is allocated for administration, up to \$200,000 is
7 allocated for a health effects study, \$500,000 is to be deposited in
8 the state treasury to the credit of the clean air account created
9 under Section 382.0622 to supplement funding for air quality
10 planning activities in affected counties, and not less than 20
11 percent is to be allocated each year to support research related to
12 air quality for the Houston-Galveston-Brazoria and Dallas-Fort
13 Worth nonattainment areas by a nonprofit organization based in
14 Houston; and

15 (3) for administrative costs incurred by the
16 commission and the laboratory, three percent.

17 (c) Except as provided by Section 375.003(b), this
18 subsection takes effect only if the attorney general certifies that
19 the United States Environmental Protection Agency has promulgated
20 final regulations under Section 112 of the federal Clean Air Act (42
21 U.S.C. Section 7412) that recognize state convenience switch
22 recovery programs as a method of compliance with those final
23 regulations and that require an incentive as provided by Section
24 375.055 for a program's approval by the United States Environmental
25 Protection Agency. If the attorney general's certification is made
26 before September 1, 2006, money collected but not appropriated for
27 any program or activity under Subsection (a) for the fiscal year

1 beginning September 1, 2005, shall be reallocated to the
2 convenience switch recovery account established under Section
3 375.251 on or before the 90th day after the date of the
4 certification and not later than August 31, 2006, in an amount not
5 to exceed \$24 million. If the attorney general's certification is
6 made on or after September 1, 2006, or the attorney general's
7 certification under Section 375.003 is made on or after January 1,
8 2007, money collected but not appropriated for any program or
9 activity under Subsection (a) for the fiscal year immediately
10 preceding the fiscal year in which the certification occurs shall
11 be reallocated to the convenience switch recovery account
12 established under Section 375.251 on or before the 90th day after
13 the date of the certification and not later than August 31 of the
14 fiscal year in which the certification occurs in an amount not to
15 exceed \$24 million. If after an attorney general's certification
16 is made, the amount collected and reallocated to the convenience
17 switch recovery account is less than \$24 million, additional
18 reallocations of money collected in excess of the amounts
19 appropriated for any program or activity under Subsection (a) to
20 the convenience switch recovery account shall occur before November
21 1 of each fiscal year after the fiscal year of the initial
22 reallocation until the total cumulative amount reallocated equals
23 \$24 million.

24 Explanation: This change is necessary to eliminate the use
25 of a portion of the unexpended balance of the Texas emissions
26 reduction plan fund to fund the convenience switch recovery
27 program.