

1 AN ACT

2 relating to incentives for and the use of alternative leak  
3 detection technologies for air contaminants.

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

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

7 SUBCHAPTER I. PROGRAMS TO ENCOURAGE THE USE OF  
8 INNOVATIVE TECHNOLOGIES

9 Sec. 382.401. ALTERNATIVE LEAK DETECTION TECHNOLOGY. (a)

10 In this section, "alternative leak detection technology" means  
11 technology, including optical gas imaging technology, designed to  
12 detect leaks and emissions of air contaminants.

13 (b) The commission by rule shall establish a program that  
14 allows the owner or operator of a facility regulated under this  
15 chapter to use voluntarily as a supplemental detection method any  
16 leak detection technology that has been incorporated and adopted by  
17 the United States Environmental Protection Agency into a program  
18 for detecting leaks or emissions of air contaminants. The program  
19 must provide regulatory incentives to encourage voluntary use of  
20 the alternative leak detection technology at a regulated facility  
21 that is capable of detecting leaks or emissions that may not be  
22 detected by methods or technology approvable under the commission's  
23 regulatory program for leak detection and repair in effect on the  
24 date the commission adopts the program. The incentives may

1 include:

2 (1) on-site technical assistance; and

3 (2) to the extent consistent with federal  
4 requirements:

5 (A) inclusion of the facility's use of  
6 alternative leak detection technology in the owner or operator's  
7 compliance history and compliance summaries;

8 (B) consideration of the implementation of  
9 alternative leak detection technology in scheduling and conducting  
10 compliance inspections; and

11 (C) credits or offsets to the facility's  
12 emissions reduction requirements based on the emissions reductions  
13 achieved by voluntary use of alternative leak detection technology.

14 (c) The owner or operator of a facility using an alternative  
15 leak detection technology shall repair and record an emission or  
16 leak of an air contaminant from a component subject to the  
17 commission's regulatory program for leak detection and repair that  
18 is detected by the alternative technology as provided by the  
19 commission's leak detection and repair rules in effect at the time  
20 of the detection. A repair to correct an emission or leak detected  
21 by the use of alternative leak detection technology may be  
22 confirmed using the same technology.

23 (d) As part of the program of incentives adopted under  
24 Subsection (b), the commission shall:

25 (1) ensure that the owner or operator of a facility  
26 records and repairs, if possible and within a reasonable period,  
27 any leak or emission of an air contaminant at the facility that is

1 detected by the voluntary use of alternative leak detection  
2 technology from a component not subject to commission rules for  
3 leak detection and repair in effect on the date of detection;

4 (2) establish the reasonable period allowed for the  
5 repair of a component causing a leak or emission in a way that  
6 includes consideration of the size and complexity of the repair  
7 required;

8 (3) subject to commission reporting requirements only  
9 those components that are not repairable within the reasonable time  
10 frame established by the commission; and

11 (4) exempt from commission enforcement a leak or  
12 emission that is repaired within the reasonable period established  
13 by the commission.

14 (e) To the extent consistent with federal requirements, the  
15 commission may not take an enforcement action against an owner or  
16 operator of a facility participating in the program established  
17 under this section for a leak or an emission of an air contaminant  
18 that would otherwise be punishable as a violation of the law or of  
19 the terms of the permit under which the facility operates if the  
20 leak or emission was detected by using alternative technology and  
21 it would not have been detected under the commission's regulatory  
22 program for leak detection and repair in effect on the date of the  
23 detection.

24 SECTION 2. Section 5.752(2), Water Code, is amended to read  
25 as follows:

26 (2) "Innovative program" means:

27 (A) a program developed by the commission under

1 this subchapter, Chapter 26 or 27 of this code, or Chapter 361, 382,  
2 or 401, Health and Safety Code, that provides incentives to a person  
3 in return for benefits to the environment that exceed benefits that  
4 would result from compliance with applicable legal requirements  
5 under the commission's jurisdiction;

6 (B) the flexible permit program administered by  
7 the commission under Chapter 382, Health and Safety Code; [~~or~~]

8 (C) the regulatory flexibility program  
9 administered by the commission under Section 5.758; or

10 (D) a program established under Section 382.401,  
11 Health and Safety Code, to encourage the use of alternative  
12 technology for detecting leaks or emissions of air contaminants.

13 SECTION 3. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1526 was passed by the House on April 26, 2007, by the following vote: Yeas 135, Nays 3, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1526 on May 25, 2007, by the following vote: Yeas 126, Nays 7, 3 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1526 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor