

By: Smith of Harris

H.B. No. 1526

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER I. PROGRAMS TO ENCOURAGE THE USE OF
INNOVATIVE TECHNOLOGIES

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

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

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

1 adopts the program. The incentives may 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.

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

23 (1) ensure that the owner or operator of a facility
24 records and repairs, if possible and within a reasonable period,
25 any leak or emission of an air contaminant at the facility that is
26 detected by the voluntary use of alternative leak detection
27 technology from a component not subject to commission rules for

1 leak detection and repair in effect on the date of detection;

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

6 (3) subject only those components that are not
7 repairable to commission reporting requirements; and

8 (4) exempt from commission enforcement a leak or
9 emission that is repaired within the reasonable period established
10 by the commission.

11 (e) The commission may not take an enforcement action
12 against an owner or operator of a facility participating in the
13 program established under this section for a leak or an emission of
14 an air contaminant that would otherwise be punishable as a
15 violation of the law or of the terms of the permit under which the
16 facility operates if:

17 (1) the leak or emission was detected by using
18 alternative technology and it would not have been detected under
19 the commission's regulatory program for leak detection and repair
20 in effect on the date of the detection; and

21 (2) the United States Environmental Protection Agency
22 has not incorporated the use of the alternative leak detection
23 technology into a program adopted by that agency for the detection
24 of leaks or emissions of air contaminants.

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

27 (2) "Innovative program" means:

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

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

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

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

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