

AN ACT

relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties.

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

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (7-a), (9-a), and (10-a) to read as follows:

(7-a) "Hybrid motor vehicle" means a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and a rechargeable energy storage system.

(9-a) "Motor vehicle" means a fully self-propelled vehicle having four wheels that has as its primary purpose the transport of a person or persons, or property, on a public highway.

(10-a) "Qualifying motor vehicle" means a motor vehicle that meets the requirements of Section 382.210(b).

SECTION 1.02. Subsection (b), Section 382.0622, Health and Safety Code, is amended to read as follows:

(b) Except as provided by Subsection [~~Subsections~~] (b-1) [~~and (c)~~], Clean Air Act fees shall be deposited in the state treasury to the credit of the clean air account and shall be used to safeguard the air resources of the state.

1 SECTION 1.03. Section 382.209, Health and Safety Code, is
2 amended by amending Subsections (b), (e), and (g) and adding
3 Subsections (i) and (j) to read as follows:

4 (b) The commission shall provide funding for local
5 low-income vehicle repair assistance, retrofit, and accelerated
6 vehicle retirement programs with available funds collected under
7 Section 382.202, 382.302, or other designated and available funds.
8 The programs shall be administered in accordance with Chapter 783,
9 Government Code. Program [~~Programmatic~~] costs may include call
10 center management, application oversight, invoice analysis,
11 education, outreach, and advertising. Not more than 10 percent of
12 the money provided to a local low-income vehicle repair assistance,
13 retrofit, and accelerated vehicle retirement program under this
14 section may be used for the administration of the programs,
15 including program costs.

16 (e) A vehicle is not eligible to participate in a low-income
17 vehicle repair assistance, retrofit, and accelerated vehicle
18 retirement program established under this section unless:

19 (1) the vehicle is capable of being operated;

20 (2) the registration of the vehicle:

21 (A) is current; and

22 (B) reflects that the vehicle has been registered
23 in the county implementing the program for the 12 months preceding
24 the application for participation in the program;

25 (3) the commissioners court of the county
26 administering the program determines that the vehicle meets the
27 eligibility criteria adopted by the commission, the Texas

1 Department of Transportation, and the Public Safety Commission;
2 [~~and~~]

3 (4) if the vehicle is to be repaired, the repair is
4 done by a repair facility recognized by the Department of Public
5 Safety, which may be an independent or private entity licensed by
6 the state; and

7 (5) if the vehicle is to be retired under this
8 subsection and Section 382.213, the replacement vehicle is a
9 qualifying motor vehicle.

10 (g) A participating county may contract with any
11 appropriate entity, including the regional council of governments
12 or the metropolitan planning organization in the appropriate
13 region, or with another county for services necessary to implement
14 the participating county's low-income vehicle repair assistance,
15 retrofit, and accelerated vehicle retirement program. The
16 participating counties in a nonattainment region or counties
17 participating in an early action compact under Subchapter H may
18 agree to have the money collected in any one county be used in any
19 other participating county in the same region. [~~The participating~~
20 ~~counties may also agree to contract with any appropriate entity,~~
21 ~~including the regional metropolitan planning organization or~~
22 ~~council of governments, to implement a program under Section~~
23 ~~382.217.~~]

24 (i) Notwithstanding the vehicle replacement requirements
25 provided by Subsection (d)(2), the commission by rule may provide
26 monetary or other compensatory assistance under the low-income
27 vehicle repair assistance, retrofit, and accelerated vehicle

1 retirement program, subject to the availability of funds, for the
2 replacement of a vehicle that meets the following criteria:

3 (1) the vehicle is gasoline-powered and is at least 10
4 years old;

5 (2) the vehicle owner meets applicable financial
6 eligibility criteria;

7 (3) the vehicle meets the requirements provided by
8 Subsections (e)(1) and (2); and

9 (4) the vehicle has passed a Department of Public
10 Safety motor vehicle safety inspection or safety and emissions
11 inspection within the 15-month period before the application is
12 submitted.

13 (j) The commission may provide monetary or other
14 compensatory assistance under the low-income vehicle repair
15 assistance, retrofit, and accelerated vehicle retirement program
16 for a replacement vehicle or replacement assistance for a pre-1996
17 model year replacement vehicle that passes the required United
18 States Environmental Protection Agency Start-Up Acceleration
19 Simulation Mode Standards emissions test but that would have failed
20 the United States Environmental Protection Agency Final
21 Acceleration Simulation Mode Standards emissions test or failed to
22 meet some other criterion determined by the commission; provided,
23 however, that a replacement vehicle under this subsection must be a
24 qualifying motor vehicle.

25 SECTION 1.04. Section 382.210, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

1 (a) The commission by rule shall adopt guidelines to assist a
2 participating county in implementing a low-income vehicle repair
3 assistance, retrofit, and accelerated vehicle retirement program
4 authorized under Section 382.209. The guidelines at a minimum
5 shall recommend:

6 (1) a minimum and maximum amount for repair
7 assistance;

8 (2) a minimum and maximum amount toward the purchase
9 price of a replacement vehicle qualified for the accelerated
10 retirement program, based on vehicle type and model year, with the
11 maximum amount not to exceed:

12 (A) \$3,000 for a replacement car of the current
13 model year or the previous three model years, except as provided by
14 Paragraph (C);

15 (B) \$3,000 for a replacement truck of the current
16 model year or the previous two model years, except as provided by
17 Paragraph (C); and

18 (C) \$3,500 for a replacement hybrid vehicle of
19 the current model year or the previous model year;

20 (3) criteria for determining eligibility, taking into
21 account:

22 (A) the vehicle owner's income, which may not
23 exceed 300 percent of the federal poverty level;

24 (B) the fair market value of the vehicle; and

25 (C) any other relevant considerations;

26 (4) safeguards for preventing fraud in the repair,
27 purchase, or sale of a vehicle in the program; and

1 (5) procedures for determining the degree and amount
2 of repair assistance a vehicle is allowed, based on:

3 (A) the amount of money the vehicle owner has
4 spent on repairs;

5 (B) the vehicle owner's income; and

6 (C) any other relevant factors.

7 (b) A replacement vehicle described by Subsection (a)(2)
8 must:

9 (1) except as provided by Subsection (c), be a vehicle
10 in a class or category of vehicles that has been certified to meet
11 federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R.
12 Section 86.1811-04, as published in the February 10, 2000, Federal
13 Register;

14 (2) have a gross vehicle weight rating of less than
15 10,000 pounds; and

16 (3) be a vehicle the total cost of which does not
17 exceed \$25,000.

18 (c) The commission may adopt any revisions made by the
19 federal government to the emissions standards described by
20 Subsection (b)(1).

21 (d) A participating county shall provide an electronic
22 means for distributing vehicle repair or replacement funds once all
23 program criteria have been met with regard to the repair or
24 replacement. The county shall ensure that funds are transferred to
25 a participating dealer under this section not later than five
26 business days after the date the county receives proof of the sale
27 and any required administrative documents from the participating

1 dealer.

2 (e) In rules adopted under this section, the commission
3 shall require a mandatory procedure that:

4 (1) produces a document confirming that a person is
5 eligible to purchase a replacement vehicle in the manner provided
6 by this chapter, and the amount of money available to the
7 participating purchaser;

8 (2) provides that a person who seeks to purchase a
9 replacement vehicle in the manner provided by this chapter is
10 required to have the document required by Subdivision (1) before
11 the person enters into negotiation for a replacement vehicle in the
12 manner provided by this chapter; and

13 (3) provides that a participating dealer who relies on
14 a document issued as required by Subdivision (1) has no duty to
15 otherwise confirm the eligibility of a person to purchase a
16 replacement vehicle in the manner provided by this chapter.

17 (f) In this section, "total cost" means the total amount of
18 money paid or to be paid for the purchase of a motor vehicle as set
19 forth as "sales price" in the form entitled "Application for Texas
20 Certificate of Title" promulgated by the Texas Department of
21 Transportation. In a transaction that does not involve the use of
22 that form, the term means an amount of money that is equivalent, or
23 substantially equivalent, to the amount that would appear as "sales
24 price" on the Application for Texas Certificate of Title if that
25 form were involved.

26 SECTION 1.05. Section 382.213, Health and Safety Code, is
27 amended by amending Subsection (a) and adding Subsections (d)

1 through (i) to read as follows:

2 (a) Except as provided by Subsection (c) and Subdivision (5)
3 of this subsection, a vehicle retired under an accelerated vehicle
4 retirement program authorized by Section 382.209 may not be resold
5 or reused in its entirety in this or another state. Subject to the
6 provisions of Subsection (i), the automobile dealer who takes
7 possession of the vehicle must submit to the program administrator
8 proof, in a manner adopted by the commission, that the vehicle has
9 been retired. The vehicle must be:

10 (1) destroyed;

11 (2) recycled;

12 (3) dismantled and its parts sold as used parts or used
13 in the program;

14 (4) placed in a storage facility of a program
15 established under Section 382.209 and subsequently destroyed,
16 recycled, or dismantled and its parts sold or used in the program;
17 or

18 (5) repaired, brought into compliance, and used as a
19 replacement vehicle under Section 382.209(d)(2).

20 (d) Notwithstanding Subsection (a)(3), the dismantler of a
21 vehicle shall scrap the emissions control equipment and engine.
22 The dismantler shall certify that the equipment and engine have
23 been scrapped and not resold into the marketplace. A person who
24 causes, suffers, allows, or permits a violation of this subsection
25 or of a rule adopted under this section is subject to a civil
26 penalty under Subchapter D, Chapter 7, Water Code, for each
27 violation. For purposes of this subsection, a separate violation

1 occurs with each fraudulent certification or prohibited resale.

2 (e) Notwithstanding Subsection (d), vehicle parts not
3 related to emissions control equipment or the engine may be resold
4 in any state. The only cost to be paid by a recycler for the
5 residual scrap metal of a vehicle retired under this section shall
6 be the cost of transportation of the residual scrap metal to the
7 recycling facility.

8 (f) Any dismantling of vehicles or salvaging of steel under
9 this section must be performed at a facility located in this state.

10 (g) In dismantling a vehicle under this section, the
11 dismantler shall remove any mercury switches in accordance with
12 state and federal law.

13 (h) For purposes of this section, the commission shall adopt
14 rules defining "emissions control equipment" and "engine."

15 (i) Notwithstanding any other provision of this section,
16 and except as provided by this subsection, a dealer is in compliance
17 with this section and incurs no civil or criminal liability as a
18 result of the disposal of a replaced vehicle if the dealer produces
19 proof of transfer of the replaced vehicle by the dealer to a
20 dismantler. The defense provided by this subsection is not
21 available to a dealer who knowingly and intentionally conspires
22 with another person to violate this section.

23 SECTION 1.06. Subchapter G, Chapter 382, Health and Safety
24 Code, is amended by adding Section 382.219 to read as follows:

25 Sec. 382.219. PURCHASE OF REPLACEMENT VEHICLE; AUTOMOBILE
26 DEALERSHIPS. (a) An amount described by Section 382.210(a)(2) may
27 be used as a down payment toward the purchase of a replacement

1 vehicle.

2 (b) An automobile dealer that participates in the
3 procedures and programs offered by this chapter must be located in
4 the state. No dealer is required to participate in the procedures
5 and programs provided by this chapter.

6 SECTION 1.07. Subchapter G, Chapter 382, Health and Safety
7 Code, is amended by adding Section 382.220 to read as follows:

8 Sec. 382.220. USE OF FUNDING FOR LOCAL INITIATIVE PROJECTS.

9 (a) Money that is made available to participating counties under
10 Section 382.202(g) or 382.302 may be appropriated only for programs
11 administered in accordance with Chapter 783, Government Code, to
12 improve air quality. A participating county may agree to contract
13 with any appropriate entity, including a metropolitan planning
14 organization or a council of governments to implement a program
15 under Section 382.202, 382.209, or this section.

16 (b) A program under this section must be implemented in
17 consultation with the commission and may include a program to:

18 (1) expand and enhance the AirCheck Texas Repair and
19 Replacement Assistance Program;

20 (2) develop and implement programs or systems that
21 remotely determine vehicle emissions and notify the vehicle's
22 operator;

23 (3) develop and implement projects to implement the
24 commission's smoking vehicle program;

25 (4) develop and implement projects for coordinating
26 with local law enforcement officials to reduce the use of
27 counterfeit state inspection stickers by providing local law

1 enforcement officials with funds to identify vehicles with
2 counterfeit state inspection stickers and to carry out appropriate
3 actions;

4 (5) develop and implement programs to enhance
5 transportation system improvements; or

6 (6) develop and implement new air control strategies
7 designed to assist local areas in complying with state and federal
8 air quality rules and regulations.

9 (c) Money that is made available for the implementation of a
10 program under Subsection (b) may not be expended for call center
11 management, application oversight, invoice analysis, education,
12 outreach, or advertising purposes.

13 (d) Fees collected under Sections 382.202 and 382.302 may be
14 used, in an amount not to exceed \$5 million per fiscal year, for
15 projects described by Subsection (b). The fees shall be made
16 available only to counties participating in the low-income vehicle
17 repair assistance, retrofit, and accelerated vehicle retirement
18 programs created under Section 382.209 and only on a matching
19 basis, whereby the commission provides money to a county in the same
20 amount that the county dedicates to a project authorized by
21 Subsection (b).

22 SECTION 1.08. Subsection (b), Section 152.002, Tax Code, is
23 amended to read as follows:

24 (b) "Total consideration" does not include:

25 (1) a cash discount;

26 (2) a full cash or credit refund to a customer of the
27 sales price of a motor vehicle returned to the seller;

1 (3) the amount charged for labor or service rendered
2 in installing, applying, remodeling, or repairing the motor vehicle
3 sold;

4 (4) a financing, carrying, or service charge or
5 interest on credit extended on a motor vehicle sold under a
6 conditional sale or other deferred payment contract;

7 (5) the value of a motor vehicle taken by a seller as
8 all or a part of the consideration for sale of another motor
9 vehicle, including any cash payment to the buyer under Section
10 348.404, Finance Code;

11 (6) a charge for transportation of the motor vehicle
12 after a sale; [~~or~~]

13 (7) motor vehicle inventory tax; or

14 (8) an amount made available to the customer under
15 Subchapter G, Chapter 382, Health and Safety Code.

16 SECTION 1.09. Section 7.102, Water Code, is amended to read
17 as follows:

18 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
19 allows, or permits a violation of a statute, rule, order, or permit
20 relating to Chapter 37 of this code, Chapter 366, 371, or 372,
21 Health and Safety Code, Subchapter G, Chapter 382, Health and
22 Safety Code, or Chapter 1903, Occupations Code, shall be assessed
23 for each violation a civil penalty not less than \$50 nor greater
24 than \$5,000 for each day of each violation as the court or jury
25 considers proper. A person who causes, suffers, allows, or permits
26 a violation of a statute, rule, order, or permit relating to any
27 other matter within the commission's jurisdiction to enforce, other

1 than violations of Chapter 11, 12, 13, 16, or 36 of this code, or
2 Chapter 341, Health and Safety Code, shall be assessed for each
3 violation a civil penalty not less than \$50 nor greater than \$25,000
4 for each day of each violation as the court or jury considers
5 proper. Each day of a continuing violation is a separate violation.

6 SECTION 1.10. The following provisions of the Health and
7 Safety Code are repealed:

- 8 (1) Subsection (e), Section 382.0622;
9 (2) Subsections (q) and (r), Section 382.202; and
10 (3) Section 382.217.

11 SECTION 1.11. The Texas Commission on Environmental Quality
12 shall review its current cutpoint levels for nitrogen oxide
13 emissions and determine whether a lower cutpoint standard would
14 best serve the interest of the public health and welfare. The
15 determination shall be made by rule not later than January 1, 2008.
16 If the commission adopts a lower cutpoint standard, the commission
17 shall make the low-income vehicle repair assistance, retrofit, and
18 accelerated vehicle retirement program under Section 382.209,
19 Health and Safety Code, as amended by this article, available to
20 owners of vehicles that did not meet the prior, more stringent
21 standard.

22 SECTION 1.12. (a) The Texas Commission on Environmental
23 Quality shall seek to work in partnership with automobile
24 manufacturers and dealers in the state to increase public awareness
25 of and participation in the low-income vehicle repair assistance,
26 retrofit, and accelerated vehicle retirement program under Section
27 382.209, Health and Safety Code, as amended by this article.

1 (b) Funding for the partnership described by Subsection (a)
2 of this section shall be used exclusively for the purpose of
3 publicizing the program.

4 SECTION 1.13. (a) The Texas Commission on Environmental
5 Quality shall seek to work in partnership with the steel industry
6 and automobile dismantlers to ensure that vehicles being replaced
7 are scrapped and that proof of scrapping is provided to the
8 commission.

9 (b) Not later than January 1, 2008, the Texas Commission on
10 Environmental Quality shall adopt procedures for certifying that
11 emissions control equipment and vehicle engines have been scrapped
12 and not resold into the marketplace and shall by rule define
13 "emissions control equipment" and "engine," as required by Section
14 382.213, Health and Safety Code, as amended by this article.

15 ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

16 SECTION 2.01. Section 386.002, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 386.002. EXPIRATION. This chapter expires August 31,
19 2013 [~~2010~~].

20 SECTION 2.02. Subsection (a), Section 386.052, Health and
21 Safety Code, is amended to read as follows:

22 (a) In administering the plan established under this
23 chapter and in accordance with the requirements of this chapter,
24 the commission:

25 (1) shall:

26 (A) [~~(1)~~] manage plan funds and oversee the plan;

27 (B) [~~(2)~~] produce guidelines, protocols, and

1 criteria for eligible projects;

2 (C) [~~3~~] develop methodologies for evaluating
3 project cost-effectiveness;

4 (D) [~~4~~] prepare reports regarding the progress
5 and effectiveness of the plan; and

6 (E) [~~5~~] take all appropriate and necessary
7 actions so that emissions reductions achieved through the plan are
8 credited by the United States Environmental Protection Agency to
9 the appropriate emissions reduction objectives in the state
10 implementation plan; and

11 (2) may hire staff and consultants needed to complete
12 the commission's duties under this section and ensure timely review
13 of applications and reimbursement of grant applicants' eligible
14 project costs.

15 SECTION 2.03. Subsection (d), Section 386.053, Health and
16 Safety Code, is amended to read as follows:

17 (d) The commission may propose revisions to the guidelines
18 and criteria adopted under this section as necessary to improve the
19 ability of the plan to achieve its goals. Revisions may include,
20 among other changes, adding additional pollutants, adding
21 stationary engines or engines used in stationary applications,
22 adding vehicles and equipment that use fuels other than diesel, or
23 adjusting eligible program categories, as appropriate, to ensure
24 that incentives established under this chapter achieve the maximum
25 possible emissions reductions. The commission shall make a
26 proposed revision available to the public before the 30th [~~45th~~]
27 day preceding the date of final adoption of the revision and shall

1 hold at least one public meeting to consider public comments on the
2 proposed revision before final adoption.

3 SECTION 2.04. Subsection (c), Section 386.104, Health and
4 Safety Code, is amended to read as follows:

5 (c) For a proposed project as described by Section
6 386.102(b), other than a project involving a marine vessel or
7 engine, not less than 75 percent of vehicle miles traveled or hours
8 of operation projected for the five years immediately following the
9 award of a grant must be projected to take place in a nonattainment
10 area or affected county of this state. The commission may also
11 allow vehicle travel on highways and roadways, or portions of a
12 highway or roadway, designated by the commission and located
13 outside a nonattainment area or affected county to count towards
14 the percentage of use requirement in this subsection. For a
15 proposed project involving a marine vessel or engine, the vessel or
16 engine must be operated in the intercoastal waterways or bays
17 adjacent to a nonattainment area or affected county of this state
18 for a sufficient amount of time over the lifetime of the project, as
19 determined by the commission, to meet the cost-effectiveness
20 requirements of Section 386.105.

21 SECTION 2.05. Subsection (a), Section 386.106, Health and
22 Safety Code, is amended to read as follows:

23 (a) Except as provided by Section 386.107 and except for
24 infrastructure projects and infrastructure purchases that are part
25 of a broader retrofit, repower, replacement, or add-on equipment
26 project, the commission may not award a grant for a proposed project
27 the cost-effectiveness of which, calculated in accordance with

1 Section 386.105 and criteria developed under that section, exceeds
2 \$15,000 [~~\$13,000~~] per ton of oxides of nitrogen emissions reduced
3 in the nonattainment area or affected county for which the project
4 is proposed. This subsection does not restrict commission
5 authority under other law to require emissions reductions with a
6 cost-effectiveness that exceeds \$15,000 [~~\$13,000~~] per ton.

7 SECTION 2.06. Section 386.109, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The
10 commission may consider for funding under Section 386.108:

11 (1) the purchase and installation at a site of
12 equipment that is designed primarily to dispense qualifying fuel,
13 other than standard gasoline or diesel, or the purchase of on-site
14 mobile fueling equipment;

15 (2) infrastructure projects, including auxiliary
16 power units, designed to dispense electricity to:

17 (A) motor vehicles;

18 (B) [~~and~~] on-road and non-road diesels; and

19 (C) marine vessels; and

20 (3) a project that involves a technology that allows a
21 vehicle to replace with electric power, while the vehicle is
22 parked, the power normally supplied by the vehicle's internal
23 combustion engine.

24 (b) The commission may provide funding to other state
25 agencies to implement projects under Subsection (a)(3), including
26 funding for the lease, purchase, or installation of idle reduction
27 technologies and facilities at rest areas and other public

1 facilities on major highway transportation routes located in areas
2 eligible for funding or for marine vessels operating on water
3 routes eligible for funding. Funding under this subsection may
4 include reasonable operational costs determined by the commission
5 to be needed for the initial start-up and proper operation of the
6 idle reduction technologies. The state agency leasing, owning, or
7 operating the idle reduction facility constructed with funds
8 provided under this subsection may, but is not required to, charge
9 reasonable fees for the provision of idle reduction services
10 provided that those fees are used to directly offset the cost of
11 providing the services.

12 (c) In evaluating a request for funding of an eligible
13 infrastructure project, the commission shall encourage the use of a
14 technology that allows a vehicle to replace with electric power,
15 while the vehicle is parked, the power normally supplied by the
16 vehicle's internal combustion engine at the state's ports and
17 border crossings in affected areas.

18 SECTION 2.07. Section 386.117, Health and Safety Code, is
19 amended by adding Subsections (e) and (f) to read as follows:

20 (e) The commission shall:

21 (1) investigate the requirements for establishing an
22 Internet-based application process for rebate grants and report
23 those requirements to the legislature not later than December 31,
24 2007; or

25 (2) implement an Internet-based application process
26 for rebate grants not later than June 1, 2008.

27 (f) The commission or its designee shall notify potential

1 applicants of any changes to the rebate grant process by its e-mail
2 list service and posting those changes on its Internet website at
3 least 30 days before the changes become effective.

4 SECTION 2.08. Subsection (b), Section 386.251, Health and
5 Safety Code, is amended to read as follows:

6 (b) The fund is administered by the commission
7 [~~comptroller~~] for the benefit of the plan established under this
8 chapter. The fund is exempt from the application of Section
9 403.095, Government Code. Interest earned on the fund shall be
10 credited to the fund.

11 SECTION 2.09. Subsection (a), Section 386.252, Health and
12 Safety Code, as amended by Section 3, Chapter 766, Section 3,
13 Chapter 1095, and Section 11, Chapter 1125, Acts of the 79th
14 Legislature, Regular Session, 2005, is reenacted and amended to
15 read as follows:

16 (a) Money in the fund may be used only to implement and
17 administer programs established under the plan and shall be
18 allocated as follows:

19 (1) for the diesel emissions reduction incentive
20 program, 87.5 percent of the money in the fund, of which not more
21 than four percent may be used for the clean school bus program and
22 not more than 10 percent may be used for on-road diesel purchase or
23 lease incentives;

24 (2) for the new technology research and development
25 program, 9.5 percent of the money in the fund, of which up to
26 \$250,000 is allocated for administration, up to \$200,000 is
27 allocated for a health effects study, \$500,000 is to be deposited in

1 the state treasury to the credit of the clean air account created
2 under Section 382.0622 to supplement funding for air quality
3 planning activities in affected counties, not less than 20 percent
4 is to be allocated each year to support research related to air
5 quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth
6 nonattainment areas by a nonprofit organization based in Houston of
7 which \$216,000 each year shall be contracted to the Energy Systems
8 Laboratory at the Texas Engineering Experiment Station for the
9 development and annual calculation of creditable statewide
10 emissions reductions obtained through wind and other renewable
11 energy resources for the State Implementation Plan, and the balance
12 is to be allocated each year to a [that] nonprofit organization or
13 an institution of higher education based in Houston to be used to
14 implement and administer the new technology research and
15 development program under a contract with the commission for the
16 purpose of identifying, testing, and evaluating new
17 emissions-reducing technologies with potential for
18 commercialization in this state and to facilitate their
19 certification or verification; and

20 (3) for administrative costs incurred by the
21 commission and the laboratory, three percent of the money in the
22 fund.

23 SECTION 2.10. Section 387.003, Health and Safety Code, is
24 amended by amending Subsection (a) and adding Subsections (c)
25 through (h) to read as follows:

26 (a) A [The] nonprofit organization or institution of higher
27 education described by Section 386.252(a)(2), under a contract with

1 the commission as described by that section, shall establish and
2 administer a new technology research and development program as
3 provided by this chapter. The commission may contract with more
4 than one entity and may limit the amount of each grant contract
5 accordingly.

6 (c) The board of directors of a nonprofit organization under
7 contract with the commission to establish and administer a new
8 technology research and development program as provided by this
9 chapter may not have more than 11 members, must include two persons
10 of relevant scientific expertise to be nominated by the commission,
11 and may not include more than four county judges selected from
12 counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth
13 nonattainment areas. The two persons of relevant scientific
14 expertise to be nominated by the commission may be employees or
15 officers of the commission, provided that they do not participate
16 in funding decisions affecting the granting of funds by the
17 commission to a nonprofit organization on whose board they serve.

18 (d) The commission may enter into a grant contract with an
19 institution of higher education described by Section 386.252(a)(2)
20 for the institution to operate a testing facility which would be
21 available for demonstration of eligible projects receiving grants
22 under this chapter.

23 (e) The commission shall provide oversight as appropriate
24 for grants provided to a nonprofit organization under this program.

25 (f) A nonprofit organization shall submit to the commission
26 for approval a budget for the disposition of funds granted under
27 this program.

1 (g) The commission shall limit the use of grants for
2 administrative costs incurred by a nonprofit organization to an
3 amount not to exceed 10 percent of the funding provided to the
4 nonprofit organization under this program.

5 (h) A nonprofit organization that receives grants from the
6 commission under this program is subject to Chapters 551 and 552,
7 Government Code.

8 SECTION 2.11. Section 387.004, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS.
11 The commission from time to time shall issue or contract with a
12 nonprofit organization described by Section 386.252(a)(2) to issue
13 specific requests for proposals (RFPs) or program opportunity
14 notices (PONs) for technology projects to be funded under the
15 program.

16 SECTION 2.12. Section 387.005, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants
19 awarded under this chapter shall be directed toward a balanced mix
20 of:

21 (1) retrofit and add-on technologies and other
22 advanced technologies that ~~to~~ reduce emissions from the existing
23 stock of engines and vehicles targeted by the Texas emissions
24 reduction plan;

25 (2) the establishment of a testing facility to
26 evaluate retrofits, add-ons, advanced technologies, and fuels, or
27 combinations of retrofits, add-ons, advanced technologies, and

1 fuels, to determine their effectiveness in producing emissions
2 reductions, with emphasis on the reduction of oxides of nitrogen;
3 and

4 (3) advanced technologies for new engines and vehicles
5 that produce very-low or zero emissions of oxides of nitrogen,
6 including stationary and mobile fuel cells[+

7 ~~[(3) studies to improve air quality assessment and~~
8 ~~modeling; and~~

9 ~~[(4) advanced technologies that reduce emissions from~~
10 ~~other significant sources].~~

11 (b) The commission, directly or through a nonprofit
12 organization described by Section 386.252(a)(2), shall identify
13 and evaluate and may consider making grants for technology projects
14 that would allow qualifying fuels to be produced from energy
15 resources in this state. In considering projects under this
16 subsection, the commission shall give preference to projects
17 involving otherwise unusable energy resources in this state and
18 producing qualifying fuels at prices lower than otherwise available
19 and low enough to make the projects to be funded under the program
20 economically attractive to local businesses in the area for which
21 the project is proposed.

22 (c) In soliciting proposals under Section 387.004 and
23 determining how to allocate grant money available for projects
24 under this chapter, the commission shall give special consideration
25 to advanced technologies and retrofit or add-on projects that
26 provide multiple benefits by reducing emissions of particulates and
27 other air pollutants.

1 (d) A project that involves publicly or privately owned
2 vehicles or vessels is eligible for funding under this chapter if
3 the project meets all applicable criteria.

4 ~~(e) [Studies authorized under Subsection (a)(3) shall be
5 consistent with air quality research priorities identified by the
6 commission and conducted in an independent and objective manner.]~~

7 ~~[(f)]~~ If a commissioner is an employee or owner of an entity
8 that applies for a grant under this chapter, the commissioner,
9 before a vote on the grant, shall disclose the fact of the
10 commissioner's employment or ownership. The disclosure must be
11 entered into the minutes of the meeting. The commissioner may not
12 vote on or otherwise participate in the awarding of the grant. If
13 the commissioner does not comply with this subsection, the entity
14 is not eligible for the grant.

15 (f) Selection of grant recipients by a nonprofit
16 organization described by Section 386.252(a)(2) under contract
17 with the commission for the purpose of establishing and
18 administering a new technology research and development program as
19 provided by this chapter is subject to the commission's review and
20 to the other requirements of this chapter. A grant contract under
21 this chapter using funds described by Section 386.252 may not be
22 made by a nonprofit organization if the commission or executive
23 director of the commission does not consent to the grant or
24 contract.

25 SECTION 2.13. Subsection (d), Section 151.0515, Tax Code,
26 is amended to read as follows:

27 (d) This section expires August 31, 2013 ~~[September 30,~~

1 ~~2010~~].

2 SECTION 2.14. Subsection (c), Section 152.0215, Tax Code,
3 is amended to read as follows:

4 (c) This section expires August 31, 2013 [~~September 30,~~
5 ~~2010~~].

6 SECTION 2.15. Subsections (a), (b), and (b-1), Section
7 501.138, Transportation Code, are amended to read as follows:

8 (a) An applicant for a certificate of title, other than the
9 state or a political subdivision of the state, must pay the county
10 assessor-collector a fee of:

11 (1) \$33 if the applicant's residence is a county
12 located within a nonattainment area as defined under Section 107(d)
13 of the federal Clean Air Act (42 U.S.C. Section 7407), as amended,
14 or is an affected county, as defined by Section 386.001, Health and
15 Safety Code; or

16 (2) \$28 if the applicant's residence is any other
17 county[~~, or~~

18 [~~(3) on or after September 1, 2010, \$28 regardless of~~
19 ~~the county in which the applicant resides~~].

20 (b) The county assessor-collector shall send:

21 (1) \$5 of the fee to the county treasurer for deposit
22 in the officers' salary fund;

23 (2) \$8 of the fee to the department:

24 (A) together with the application within the time
25 prescribed by Section 501.023; or

26 (B) if the fee is deposited in an
27 interest-bearing account or certificate in the county depository or

1 invested in an investment authorized by Subchapter A, Chapter 2256,
2 Government Code, not later than the 35th day after the date on which
3 the fee is received; and

4 (3) the following amount to the comptroller at the
5 time and in the manner prescribed by the comptroller:

6 (A) \$20 of the fee if the applicant's residence
7 is a county located within a nonattainment area as defined under
8 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
9 7407), as amended, or is an affected county, as defined by Section
10 386.001, Health and Safety Code; or

11 (B) \$15 of the fee if the applicant's residence
12 is any other county[~~, or~~

13 [~~(C) on or after September 1, 2010, \$15~~
14 ~~regardless of the county in which the applicant resides].~~

15 (b-1) Fees collected under Subsection (b) to be sent to the
16 comptroller shall be deposited as follows:

17 (1) before September 1, 2008, to the credit of the
18 Texas emissions reduction plan fund; and

19 (2) on or after September 1, 2008, to the credit of the
20 Texas Mobility Fund, except that \$5 of each fee imposed under
21 Subsection (a)(1) and deposited on or after September 1, 2008, and
22 before September 1, 2015 [~~2010~~], shall be deposited to the credit of
23 the Texas emissions reduction plan fund.

24 SECTION 2.16. Subsection (b-3), Section 501.138,
25 Transportation Code, is amended to read as follows:

26 (b-3) This subsection and Subsection (b-2) expire September
27 1, 2015 [~~2010~~].

1 SECTION 2.17. Subsection (c), Section 502.1675,
2 Transportation Code, is amended to read as follows:

3 (c) This section expires August 31, 2013 [~~2010~~].

4 SECTION 2.18. Subsection (c), Section 548.5055,
5 Transportation Code, is amended to read as follows:

6 (c) This section expires August 31, 2013 [~~2010~~].

7 SECTION 2.19. Section 12, Chapter 1125, Acts of the 79th
8 Legislature, Regular Session, 2005, amending Subsection (a),
9 Section 386.252, Health and Safety Code, is repealed.

10 ARTICLE 3. ENERGY EFFICIENCY

11 SECTION 3.01. Section 388.003, Health and Safety Code, is
12 amended by adding Subsections (b-1) and (b-2) to read as follows:

13 (b-1) If the State Energy Conservation Office determines,
14 based on written recommendations from the laboratory, that the
15 latest published edition of the International Residential Code
16 energy efficiency provisions or the latest published edition of the
17 International Energy Conservation Code will result in residential
18 or commercial energy efficiency and air quality that is equivalent
19 to or better than the energy efficiency and air quality achievable
20 under the editions adopted under Subsection (a) or (b), the office
21 may by rule adopt the equivalent or more stringent editions and
22 substitute them for the energy codes described by Subsection (a) or
23 (b). The rule, if adopted, shall establish an effective date for
24 the new energy codes but not earlier than nine months after the date
25 of adoption. The laboratory shall make its recommendations not
26 later than six months after publication of new editions at the end
27 of each three-year code development cycle of the International

1 Residential Code and the International Energy Conservation Code.

2 (b-2) The State Energy Conservation Office by rule shall
3 establish a procedure for persons who have an interest in the
4 adoption of energy codes under Subsection (b-1) to have an
5 opportunity to comment on the codes under consideration and to have
6 the commentary considered by the laboratory in developing its
7 recommendations. The office shall consider persons who have an
8 interest in adoption of those codes to include:

9 (1) commercial and residential builders, architects
10 and engineers;

11 (2) municipal, county, and other local government
12 authorities; and

13 (3) environmental groups.

14 SECTION 3.02. Section 388.005, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF
17 HIGHER EDUCATION, STATE AGENCIES, AND CERTAIN POLITICAL
18 SUBDIVISIONS. (a) In this section:

19 (1) "Institution of higher education" includes an
20 institution of higher education as defined by Section 61.003,
21 Education Code, and a private institution of higher education that
22 receives funding from the state.

23 (2) "Political~~,"~~ "political" subdivision" means:

24 (A) [~~(1)~~] an affected county; or

25 (B) [~~(2)~~] any political subdivision in a
26 nonattainment area or in an affected county other than:

27 (i) [~~(A)~~] a school district; or

1 (ii) [~~(B)~~] a district as defined by Section
2 36.001 or 49.001, Water Code, that had a total annual electricity
3 expense of less than \$200,000 in the previous fiscal year of the
4 district.

5 (3) "State agency" means a department, commission,
6 board, office, council, or other agency in the executive branch of
7 government that is created by the constitution or a statute of this
8 state and has authority not limited to a geographical portion of the
9 state.

10 (b) Each political subdivision, institution of higher
11 education, or state agency shall implement all energy efficiency
12 measures that meet the standards established for a contract for
13 energy conservation measures under Section 302.004(b), Local
14 Government Code, in order to reduce electricity consumption by the
15 existing facilities of the entity [~~the political subdivision~~].

16 (c) Each political subdivision, institution of higher
17 education, or state agency shall establish a goal to reduce the
18 electric consumption by the entity [~~political subdivision~~] by five
19 percent each year for six [~~five~~] years, beginning September 1, 2007
20 [~~January 1, 2002~~].

21 (d) A political subdivision, institution of higher
22 education, or state agency that does not attain the goals under
23 Subsection (c) must include in the report required by Subsection
24 (e) justification that the entity [~~political subdivision~~] has
25 already implemented all available measures. An entity that submits
26 a report under this subsection indicating it has already
27 implemented all available measures is exempt from the annual

1 reporting requirement of Subsection (e) if a subsequent report
2 would indicate no change in status. An entity may be required to
3 provide notice that it is exempt to the State Energy Conservation
4 Office.

5 (e) A political subdivision, institution of higher
6 education, or state agency annually shall report to the State
7 Energy Conservation Office, on forms provided by that office,
8 regarding the entity's [~~political subdivision's~~] efforts and
9 progress under this section. The State Energy Conservation Office
10 shall provide assistance and information to the entity [~~political~~
11 ~~subdivisions~~] to help it [~~the political subdivisions~~] meet the
12 goals set under this section.

13 (f) This section does not apply to an institution of higher
14 education or a state agency if:

15 (1) the State Energy Conservation Office determines
16 that, before September 1, 2007, the institution or agency adopted a
17 plan for conserving energy under which the institution or agency
18 has set a percentage goal for reducing electric consumption; and

19 (2) the institution or agency submits reports on its
20 conservation plan not less than quarterly to the governor, the
21 Legislative Budget Board, and the State Energy Conservation Office.

22 SECTION 3.03. Subsection (b), Section 44.901, Education
23 Code, is amended to read as follows:

24 (b) The board of trustees of a school district shall
25 establish a goal to reduce the annual electric consumption by five
26 percent each year for six years, beginning September 1, 2007. The
27 board of trustees of a school district may enter into an energy

1 savings performance contract in accordance with this section.

2 SECTION 3.04. Subsection (d), Section 2155.068, Government
3 Code, is amended to read as follows:

4 (d) As part of the standards and specifications program, the
5 commission shall review contracts for opportunities to recycle
6 waste produced at state buildings, shall develop and update a list
7 of equipment and appliances that meet the energy efficiency
8 standards of Section 2158.301, and shall assist state agencies in
9 selecting products under that section as appropriate.

10 SECTION 3.05. Chapter 2158, Government Code, is amended by
11 adding Subchapter F to read as follows:

12 SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS

13 FOR EQUIPMENT AND APPLIANCES

14 Sec. 2158.301. ENERGY CONSERVATION. If available and cost
15 effective, the commission or another state agency shall purchase
16 equipment and appliances for state use that meet or exceed the
17 federal Energy Star standards designated by the United States
18 Environmental Protection Agency and the United States Department of
19 Energy.

20 SECTION 3.06. (a) The State Energy Conservation Office
21 shall adopt rules implementing a procedure for stakeholder
22 participation as required under Subsection (b-2), Section 388.003,
23 Health and Safety Code, as added by this article, as soon as
24 practicable after the effective date of this Act.

25 (b) The State Energy Conservation Office shall adopt rules
26 as necessary to implement Subsection (b), Section 44.901, Education
27 Code, as amended by this article, as soon as practicable after the

1 effective date of this Act.

2 SECTION 3.07. (a) The energy conservation standards for
3 equipment and appliances under Section 2158.301, Government Code,
4 as added by this article, apply to a purchase by a state agency on or
5 after the effective date of this Act.

6 (b) The Texas Building and Procurement Commission shall
7 develop a list of equipment and appliances under Section 2155.068,
8 Government Code, as amended by this article, as soon as practicable
9 after the effective date of this Act.

10 ARTICLE 4. IDLING OF MOTOR VEHICLES

11 SECTION 4.01. Subsections (b), (c), and (d), Section
12 382.0191, Health and Safety Code, are amended to read as follows:

13 (b) The commission may not prohibit or limit the idling of a
14 motor vehicle when idling is necessary to power a heater or air
15 conditioner while a driver is using the vehicle's sleeper berth for
16 a government-mandated rest period. Idling is not necessary to
17 power a heater or air conditioner if the vehicle is within two miles
18 of a facility offering external heating and air conditioning
19 connections at a time when those connections are available.

20 (c) No driver using the vehicle's sleeper berth may idle the
21 vehicle in a residential area as defined by Section 244.001, Local
22 Government Code, or in a school zone or within 1,000 feet of a
23 hospital or a public school during its hours of operation. An
24 offense under this subsection shall be punishable by a fine not to
25 exceed \$500.

26 (d) This section expires September 1, 2009 [~~2007~~].

1 ARTICLE 5. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY NOTIFICATION
2 REQUIREMENTS

3 SECTION 5.01. Section 382.0516, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 382.0516. NOTICE TO STATE SENATOR, STATE [~~AND~~]
6 REPRESENTATIVE, AND CERTAIN LOCAL OFFICIALS. (a) On receiving an
7 application for a construction permit or an amendment to a
8 construction permit, a special permit, or an operating permit for a
9 facility that may emit air contaminants, the commission shall send
10 notice of the application to the state senator and representative
11 who represent the area in which the facility is or will be located.

12 (b) In addition to the notice required by Subsection (a),
13 for an application that relates to an existing or proposed concrete
14 batch plant, on receiving an application for a construction permit,
15 an amendment to a construction permit, an operating permit, or an
16 authorization to use a standard permit, the commission shall send
17 notice of the application:

18 (1) to the county judge of the county in which the
19 facility is or will be located; and

20 (2) if the facility is or will be located in a
21 municipality or the extraterritorial jurisdiction of a
22 municipality, to the presiding officer of the municipality's
23 governing body.

24 SECTION 5.02. The notice provisions under Section 382.0516,
25 Health and Safety Code, as amended by this article, apply only to an
26 application for a permit that is submitted to the Texas Commission
27 on Environmental Quality on or after the effective date of this

1 article.

2 SECTION 5.03. This article takes effect September 1, 2007.

3 ARTICLE 6. ENFORCEMENT ACTIONS BASED ON INFORMATION PROVIDED BY A
4 PERSON

5 SECTION 6.01. Subchapter A, Chapter 7, Water Code, is
6 amended by adding Section 7.00251 to read as follows:

7 Sec. 7.00251. INITIATION OF CERTAIN CLEAN AIR ACT
8 ENFORCEMENT ACTIONS USING INFORMATION PROVIDED BY A PERSON. If the
9 commission determines that there are multiple violations based on
10 information it receives as required by Title V of the federal Clean
11 Air Act (42 U.S.C. Section 7661 et seq.) from a person, as defined
12 in Section 382.003, Health and Safety Code, only those that require
13 initiation of formal enforcement will be included in any proposed
14 enforcement action. For all other violations that do not require
15 initiation of formal enforcement, the commission may not include in
16 the enforcement action the following:

17 (1) violations that are not repeat violations due to
18 the same root cause from two consecutive investigations within the
19 most recent five-year period; or

20 (2) violations that have been corrected within the
21 time frame specified by the commission or for which the facility has
22 not had the time specified by the commission to correct the
23 violations.

24 ARTICLE 7. SOLAR ENERGY DEMONSTRATION PROJECT

25 SECTION 7.01. Subchapter Z, Chapter 39, Utilities Code, is
26 amended by adding Section 39.9051 to read as follows:

27 Sec. 39.9051. ENERGY EFFICIENCY DEMONSTRATION PROJECTS FOR

1 SOLAR ELECTRIC SYSTEM; GRANT PROGRAM. (a) The commission by rule
2 shall establish grant programs for:

3 (1) a demonstration project for installation of solar
4 electric systems for new residential subdivisions;

5 (2) a demonstration project for installation of solar
6 electric systems for new or established affordable housing for
7 persons with low incomes; and

8 (3) a demonstration project for installation of solar
9 electric systems for not more than three small businesses.

10 (b) To qualify for a grant under this section, the solar
11 electric system must be a device that:

12 (1) generates electricity using solar resources;

13 (2) has a generating capacity of not more than 1,000
14 kilowatts; and

15 (3) is installed with a manufacturer's warranty
16 against breakdown or undue degradation for a period of at least five
17 years.

18 (c) A demonstration project grant program established under
19 this section must provide for full or partial payment of the cost of
20 equipment and installation for the solar electric systems. The
21 commission shall establish for each grant program a competitive
22 bidding process for grant applicants. The commission shall
23 consider the value of funding demonstration projects in different
24 parts of this state, after considering the demographic and
25 geographic diversity of this state.

26 (d) To qualify for a grant under Subsection (a)(1), the
27 applicant:

1 (1) must be a person whose primary business activity
2 is the building of residential housing developments; and

3 (2) must have installed or must be contractually
4 obligated to install qualifying solar electric systems in each
5 residence constructed in a residential subdivision.

6 (e) To qualify for a grant under Subsection (a)(2), the
7 applicant must have installed or be contractually obligated to
8 install a qualifying solar electric system for residential real
9 property:

10 (1) appraised in accordance with Section 23.21, Tax
11 Code, as affordable housing property; or

12 (2) subject to a contractual obligation that the
13 property will be appraised in accordance with Section 23.21, Tax
14 Code, as affordable housing property within a reasonable time after
15 the grant is received.

16 (f) To qualify for a grant under Subsection (a)(3), the
17 applicant must be a small business or owner of a small business that
18 meets qualifications adopted by the commission after consideration
19 of federal Small Business Administration standards for
20 qualification for loans from that administration.

21 (g) The commission shall issue a report to the governor,
22 lieutenant governor, and speaker of the house of representatives
23 not later than December 1 of each even-numbered year summarizing
24 the status of the grant programs established under Subsection (a).
25 The report must include the amount of money granted to each
26 demonstration project and an evaluation of whether the projects
27 demonstrate the economic and ecologic viability of solar electric

1 system installations.

2 (h) This section expires December 31, 2010.

3 SECTION 7.02. (a) The Public Utility Commission of Texas
4 may not spend money to implement a demonstration project grant
5 program established under Section 39.9051, Utilities Code, as added
6 by this article, except for money described by Subsection (b) of
7 this section that is appropriated to the commission.

8 (b) The Public Utility Commission of Texas may solicit and
9 accept gifts, grants, and other donations from any source to carry
10 out the demonstration grant program established under Section
11 39.9051, Utilities Code, as added by this article.

12 (c) This section expires December 31, 2010.

13 ARTICLE 8. EFFECTIVE DATE

14 SECTION 8.01. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 12 passed the Senate on March 21, 2007, by the following vote: Yeas 29, Nays 0; May 21, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 24, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 12 passed the House, with amendments, on May 17, 2007, by the following vote: Yeas 145, Nays 0, two present not voting; May 24, 2007, House granted request of the Senate for appointment of Conference Committee; May 28, 2007, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor