

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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 an alternative detection method any alternative leak detection technology that has 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 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 adopts the

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

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

25 (2) "Innovative program" means:

26 (A) a program developed by the commission under  
27 this subchapter, Chapter 26 or 27 of this code, or Chapter 361, 382,

1 or 401, Health and Safety Code, that provides incentives to a person  
2 in return for benefits to the environment that exceed benefits that  
3 would result from compliance with applicable legal requirements  
4 under the commission's jurisdiction;

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

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

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

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

ADOPTED

MAY 23 2007

*Atty Gen*  
Secretary of the Senate

By: *Robson*

H.B. No. 1526

Substitute the following for H.B. No. 1526:

By: *Sligh*

C.S. H.B. No. 1526

A BILL TO BE ENTITLED

AN ACT

relating to incentives for and the use of supplemental 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. SUPPLEMENTAL LEAK DETECTION TECHNOLOGY. (a)

In this section, "supplemental 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 leak detection technology that has 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 the supplemental 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 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 supplemental leak detection technology in the owner or operator's  
7 compliance history and compliance summaries;

8 (B) consideration of the implementation of  
9 supplemental leak detection technology in scheduling and  
10 conducting 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 supplemental leak detection  
14 technology.

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

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

26 (1) ensure that the owner or operator of a facility  
27 records and repairs, if possible and within a reasonable period,

1 any leak or emission of an air contaminant at the facility that is  
2 detected by the voluntary use of supplemental leak detection  
3 technology from a component not subject to commission rules for  
4 leak detection and repair in effect on the date of detection;

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

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

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

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



FLOOR AMENDMENT NO. 1

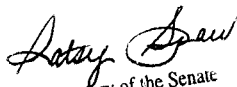
BY: 

1 Amend C.S.H.B. No. 1526 (Senate Committee Printing) in  
2 SECTION 1 of the bill, on page 2, line 11, by striking "The" and  
3 inserting the following:

4 To the extent consistent with federal requirements, the

**ADOPTED**

MAY 23 2007

  
Secretary of the Senate

ADOPTED

*Religion*

FLOOR AMENDMENT NO. 2

MAY BE BY:

*Hatley Spaw*  
Secretary of the Senate

- 1 Amend C.S.H.B. 1526 (Senate Committee Report) as follows:
- 2 (1) On page 1, line 10, strike "supplemental" and insert
- 3 "alternative"
- 4 (2) On page 1, line 17, strike "SUPPLEMENTAL" and insert
- 5 "ALTERNATIVE"
- 6 (3) On page 1, line 18, strike "supplemental" and insert
- 7 "alternative"
- 8 (4) On page 1, line 28, strike "supplemental" and insert
- 9 "alternative"
- 10 (5) On page 1, line 38, strike "supplemental" and insert
- 11 "alternative"
- 12 (6) On page 1, line 41, strike "supplemental" and insert
- 13 "alternative"
- 14 (7) On page 1, line 45, strike "supplemental" and insert
- 15 "alternative"
- 16 (8) On page 1, line 47, strike "supplemental" and insert
- 17 "alternative"
- 18 (9) On page 1, line 51, strike "supplemental" and insert
- 19 "alternative"
- 20 (10) On page 1, line 54, strike "supplemental" and insert
- 21 "alternative"
- 22 (11) On page 1, line 61, strike "supplemental" and insert
- 23 "alternative"
- 24 (12) On page 2, line 11, strike "The" and insert "To the
- 25 extent consistent with federal requirements, the"
- 26 (13) On page 2, line 17, strike "supplemental" and insert
- 27 "alternative"
- 28 (14) On page 2, line 34, strike "supplemental" and insert
- 29 "alternative"

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 18, 2007**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1526** by Smith, Wayne (Relating to incentives for and the use of supplemental leak detection technologies for air contaminants. ), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would authorize the Texas Commission on Environmental Quality to establish a program that would encourage owners and operators of point sources of air pollution to use innovative technologies, including optical gas imaging technology, designed to detect leaks and emissions of air contaminants. The bill would also provide that this program include certain limitations on enforcement if the facility is participating in a program using innovative technology. The bill also provides the TCEQ flexibility to ensure emissions are quantified in order to appropriately implement the leak detection program requirements. The bill is not expected to have significant fiscal implications to the Commission on Environmental Quality.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, DB, WK, TL

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 3, 2007**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1526** by Smith, Wayne (Relating to incentives for and the use of alternative leak detection technologies for air contaminants.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would authorize the Texas Commission on Environmental Quality to establish a program that would encourage owners and operators of point sources of air pollution to use innovative technologies, including optical gas imaging technology, designed to detect leaks and emissions of air contaminants. The bill would also provide that this program include certain limitations on enforcement if the facility is participating in a program using innovative technology. The bill is not expected to have significant fiscal implications to the Commission on Environmental Quality.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, DB, WK, TL

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

April 15, 2007

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1526** by Smith, Wayne (Relating to incentives for and the use of alternative leak detection technologies for air contaminants. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would authorize the Texas Commission on Environmental Quality to establish a program that would encourage owners and operators of point sources of air pollution to use innovative technologies, including optical gas imaging technology, designed to detect leaks and emissions of air contaminants. The bill would also provide that this program include certain limitations on enforcement if the facility is participating in a program using innovative technology. The bill is not expected to have significant fiscal implications to the Commission on Environmental Quality.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 25, 2007**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB1526** by Smith, Wayne (Relating to incentives for and the use of alternative leak detection technologies for air contaminants.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would authorize the Texas Commission on Environmental Quality to establish a program that would encourage owners and operators of point sources of air pollution to use innovative technologies, including optical gas imaging technology, designed to detect leaks and emissions of air contaminants. The bill would also provide that this program include certain limitations on enforcement if the facility is participating in a program using innovative technology. The bill is not expected to have significant fiscal implications to the Commission on Environmental Quality.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL