

House Bill 1526
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 program. The incentives may include:

- (1) on-site technical assistance; and
- (2) to the extent consistent with federal requirements:
 - (A) inclusion of the facility's use of alternative leak detection technology in the owner or operator's compliance history and compliance summaries;
 - (B) consideration of the implementation of alternative

SENATE VERSION

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 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** 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 program. The incentives may include:

- (1) on-site technical assistance; and
- (2) to the extent consistent with federal requirements:
 - (A) inclusion of the facility's use of alternative leak detection technology in the owner or operator's compliance history and compliance summaries;
 - (B) consideration of the implementation of alternative

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leak detection technology in scheduling and conducting compliance inspections; and

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

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

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

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

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

(3) subject to commission reporting requirements only

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leak detection technology in scheduling and conducting compliance inspections; and

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

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

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

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

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

(3) subject to commission reporting requirements only

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those components that are not repairable within the reasonable time frame established by the commission; and

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

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

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

(2) "Innovative program" means:

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

(B) the flexible permit program administered by the

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those components that are not repairable within the reasonable time frame established by the commission; and

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

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

Same as House version.

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commission under Chapter 382, Health and Safety Code;
[~~or~~]

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

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

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

Same as House version.