

Amend **CSHB 432** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 386.252, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

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

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

(2) for the new technology research and development program, 9.5 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, and the balance is to be allocated each year to a nonprofit organization or an institution of higher education based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their

certification or verification; and

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

(d) The commission may allocate unexpended money designated for the clean fleet program to other programs described under Subsection (a) after the commission allocates money to recipients under the clean fleet program.

SECTION _____. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means a fuel other than gasoline, diesel or biodiesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Golf cart" has the meaning assigned by Section 502.001, Transportation Code.

(4) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of propelling the vehicle.

(5) "Incremental cost" has the meaning assigned by Section 386.001.

(6) "Light-duty motor vehicle" has the meaning assigned by Section 386.151.

(7) "Motor vehicle" has the meaning assigned by Section 386.151.

(8) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard No. 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(9) "Program" means the Texas clean fleet program established under this chapter.

Sec. 391.002. PROGRAM. (a) The commission shall establish and administer the Texas clean fleet program to encourage a person that has a fleet of vehicles to convert diesel-powered vehicles to alternative fuel or hybrid vehicles or replace them with alternative fuel or hybrid vehicles. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects for fleet owners.

(b) An entity that places 25 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the calendar year the entity purchases a new on-road vehicle that:

(1) is certified to current federal emissions standards;

(2) replaces a diesel-powered on-road vehicle of the same weight classification and use; and

(3) is a hybrid vehicle or fueled by an alternative fuel.

(b) A vehicle is not a qualifying vehicle if the vehicle:

(1) is a neighborhood electric vehicle;

(2) has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or

(3) has qualified for a similar grant or tax credit in another jurisdiction.

Sec. 391.004. APPLICATION FOR GRANT. (a) An entity operating in this state that operates a fleet of at least 100 vehicles may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate.

(b) To be eligible for a grant under the program, a project must:

(1) result in a reduction in emissions of nitrogen oxides or other pollutants, as established by the commission, of at least 25 percent, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) replace a vehicle that:

(A) is an on-road vehicle that has been owned, registered, and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(B) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(C) satisfies any minimum percentage of annual usage requirements established by the commission; and

(D) is in operating condition and has at least two years of remaining useful life, as determined in accordance

with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient for at least five years from the date of reimbursement of the grant-funded expenses. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the state.

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A vehicle or engine replaced under this program must be rendered permanently inoperable by crushing the vehicle or making a hole in the engine block and permanently destroying the frame of the vehicle. The commission shall establish criteria for ensuring the permanent destruction of the engine and vehicle. The commission shall monitor and enforce the destruction requirements.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission.

(h) Mileage requirements established by the commission under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant

to pay the recipient's administrative expenses.

Sec. 391.007. AMOUNT OF GRANT. (a) The amount the commission shall award for each vehicle being replaced is:

(1) 80 percent of the incremental cost for a heavy-duty diesel engine:

(A) manufactured prior to implementation of federal or California emission standards; and

(B) not certified to meet a specific emission level by either the U.S. Environmental Protection Agency or the California Air Resources Board;

(2) 70 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1990 through 1997;

(3) 60 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1998 through 2003;

(4) 50 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 2004 and later;

(5) 80 percent of the incremental cost for a light-duty diesel vehicle:

(A) manufactured prior to the implementation of certification requirements; and

(B) not certified to meet either mandatory or voluntary emission certification standards;

(6) 70 percent of the incremental cost for a light-duty diesel vehicle certified to meet federal emission standards prior to 2004; and

(7) 60 percent of the incremental cost for a light-duty diesel vehicle certified to meet federal emission standards applicable after 2003.

(b) The commission may revise the standards for determining grant amounts, as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

Sec. 391.008. EXPIRATION. This chapter expires August 31, 2017.

SECTION _____. (a) In this section:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, methanol, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(b) The commission shall conduct an alternative fueling facilities study to:

(1) assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels; and

(2) determine the emissions reductions achieved from replacing a diesel-powered engine with an engine utilizing alternative fuels.

(c) From the emissions reductions determined under Subsection (b) of this section, the commission shall determine the amount of emissions reductions which are fairly attributable to the installation of an alternative fuel fueling facility and the combustion of the alternative fuel in the vehicles fueled by the alternative fuel fueling facility.

(d) In connection with the study conducted under this section, the commission shall seek approval for credit in the state implementation plan from the United States Environmental Protection Agency for emissions reductions that can be:

(1) directly attributed to an alternative fuel fueling facility; and

(2) achieved as a consequence of an alternative fuel fueling facility encouraging the use of alternatively fueled vehicles.

(e) The commission shall include in the commission's biennial report to the legislature the findings of the study conducted under this section and the status of the discussions with the United States Environmental Protection Agency regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities.

(f) This section expires August 31, 2011.

SECTION _____. The Texas Commission on Environmental Quality shall adopt rules under Section 391.005, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.