

By: Averitt, West

S.B. No. 16

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enhancement of air quality, including the capture
3 and storage of carbon dioxide and development of a greenhouse gas
4 registry, the development of emissions reduction technologies, and
5 the improvement of energy efficiency in buildings, vehicles, and
6 appliances; providing civil penalties.

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

8 ARTICLE 1. ADVANCED CLEAN ENERGY PROJECTS

9 SECTION 1.01. Subdivision (1-a), Section 382.003, Health
10 and Safety Code, is amended to read as follows:

11 (1-a) "Advanced clean energy project" means a project
12 for which an application for a permit under this chapter is received
13 by the commission on or after January 1, 2008, and before January 1,
14 2020, and that:

15 (A) involves the use of coal, biomass, petroleum
16 coke, solid waste, or fuel cells using hydrogen derived from such
17 fuels, in the generation of electricity, or the creation of liquid
18 fuels outside of the existing fuel production infrastructure while
19 co-generating electricity;

20 (B) is capable of achieving on an annual basis a
21 99 percent or greater reduction of sulfur dioxide emissions, a 95
22 percent or greater reduction of mercury emissions, and an emission
23 rate for nitrogen oxides of 0.05 pounds or less per million British
24 thermal units; and

1 (C) captures at least 50 percent of the carbon
2 dioxide in the fuel being combusted and sequesters that carbon
3 dioxide through methods that include geologic storage [~~renders~~
4 ~~carbon dioxide capable of capture, sequestration, or abatement if~~
5 ~~any carbon dioxide is produced by the project~~].

6 SECTION 1.02. Section 382.003, Health and Safety Code, is
7 amended by adding Subdivision (7-bb) to read as follows:

8 (7-bb) "Geologic storage" means the underground
9 storage of carbon dioxide in a suitable geologic formation,
10 including storage that is accomplished in conjunction with an
11 enhanced oil recovery project.

12 SECTION 1.03. Subsection (b), Section 382.0567, Health and
13 Safety Code, is amended to read as follows:

14 (b) The commission may not consider any technology or level
15 of emission reduction to be achievable for purposes of a best
16 available control technology analysis or lowest achievable
17 emission rate analysis conducted by the commission under another
18 provision of this chapter solely because the technology is used or
19 the emission reduction is achieved by a facility receiving an
20 incentive as an advanced clean energy project or new technology
21 project, as described by Section 391.002.

22 ARTICLE 2. NEW TECHNOLOGY IMPLEMENTATION GRANT PROGRAM

23 SECTION 2.01. Subsection (b), Section 386.051, Health and
24 Safety Code, is amended to read as follows:

25 (b) Under the plan, the commission and the comptroller shall
26 provide grants or other funding for:

27 (1) the diesel emissions reduction incentive program

1 established under Subchapter C, including for infrastructure
2 projects established under that subchapter;

3 (2) the motor vehicle purchase or lease incentive
4 program established under Subchapter D;

5 (3) the new technology research and development
6 program established under Chapter 387; ~~and~~

7 (4) the clean school bus program established under
8 Chapter 390;

9 (5) the new technology implementation grant program
10 established under Chapter 391;

11 (6) the plug-in hybrid purchase credit program
12 established under Subchapter G; and

13 (7) the energy-efficient appliance purchase incentive
14 program established under Subchapter H.

15 SECTION 2.02. Subsection (b), Section 386.052, Health and
16 Safety Code, is amended to read as follows:

17 (b) Appropriate commission objectives include:

18 (1) achieving maximum reductions in oxides of nitrogen
19 to demonstrate compliance with the state implementation plan;

20 (2) preventing areas of the state from being in
21 violation of national ambient air quality standards;

22 (3) achieving cost-saving and multiple benefits by
23 reducing emissions of other pollutants; ~~and~~

24 (4) achieving reductions of emissions of diesel
25 exhaust from school buses; and

26 (5) advancing new technologies that reduce oxides of
27 nitrogen and other emissions from facilities and other stationary

1 sources.

2 SECTION 2.03. Subsection (b), Section 386.057, Health and
3 Safety Code, is amended to read as follows:

4 (b) Not later than December 1, 2002, and not later than
5 December 1 of each subsequent second year, the commission, in
6 consultation with the advisory board, shall publish and submit to
7 the legislature a biennial plan report. The report must include:

8 (1) the information included in the annual reviews
9 conducted under Subsection (a);

10 (2) specific information for individual projects as
11 required by Subsection (c);

12 (3) information contained in reports received under
13 Sections 386.205, 388.003(e), ~~[and]~~ 388.006, and 391.104; and

14 (4) a summary of the commission's activities under
15 Section 386.052.

16 SECTION 2.04. Subsection (c), Section 386.251, Health and
17 Safety Code, is amended to read as follows:

18 (c) The fund consists of:

19 (1) the amount of money deposited to the credit of the
20 fund under:

21 (A) Section 386.056;

22 (B) Sections 151.0515 and 152.0215, Tax Code; and

23 (C) Sections 501.138, 502.1675, and 548.5055,
24 Transportation Code; and

25 (2) grant money recaptured under Section 386.111(d)
26 and Chapters 387 and 391.

27 SECTION 2.05. Subtitle C, Title 5, Health and Safety Code,

1 is amended by adding Chapter 391 to read as follows:

2 CHAPTER 391. NEW TECHNOLOGY IMPLEMENTATION FOR FACILITIES AND

3 STATIONARY SOURCES PROGRAM

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 391.001. DEFINITIONS. In this chapter:

6 (1) "Best available control technologies" or "BACT"
7 has the meaning assigned by 42 U.S.C. Section 7479(3).

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

10 (3) "Facility" has the meaning assigned by Section
11 382.003.

12 (4) "Incremental cost" has the meaning assigned by
13 Section 386.001.

14 (5) "New technology" means emissions control
15 technology that results in emissions reductions that exceed state
16 or federal requirements existing at the time of submission of a new
17 technology implementation grant application.

18 (6) "Stationary source" has the meaning assigned by 42
19 U.S.C. Section 7602(z).

20 Sec. 391.002. PROGRAM. (a) The commission shall establish
21 and administer a new technology implementation program to implement
22 new technologies to reduce emissions from facilities and other
23 stationary sources located within the state. Under the program,
24 the commission shall provide grants or other financial incentives
25 for eligible projects to offset the incremental cost of emissions
26 reductions.

27 (b) Projects that may be considered for a grant under the

1 program include:

2 (1) advanced clean energy projects, as defined by
3 Section 382.003;

4 (2) new technology projects that reduce emissions of
5 regulated pollutants from point sources that involve capital
6 expenditures that exceed \$500 million; and

7 (3) electricity storage projects related to renewable
8 energy.

9 Sec. 391.003. GUIDELINES AND CRITERIA. (a) The commission
10 shall adopt grant guidelines and criteria consistent with the
11 requirements of this chapter.

12 (b) Guidelines must include protocols to calculate
13 projected emissions reductions, project cost-effectiveness, and
14 safeguards to ensure that funded projects generate emissions
15 reductions not otherwise required by state or federal law.

16 (c) The commission may propose revisions to the guidelines
17 and criteria adopted under this section as necessary to improve the
18 ability of the plan to achieve its goals.

19 (d) Because the legislature finds that the current state of
20 air quality in the state jeopardizes the state's ability to meet
21 federal air quality requirements, the commission may adopt
22 emergency rules under Section 2001.034, Government Code, with
23 abbreviated notice, to carry out any rulemaking necessary to
24 implement this chapter.

25 (e) Except as provided by Subsection (d), the rulemaking
26 requirements of Chapter 2001, Government Code, do not apply to the
27 adoption or revision of guidelines and criteria under this section.

1 Sec. 391.004. AVAILABILITY OF EMISSIONS REDUCTION CREDITS
2 IN CERTAIN NONATTAINMENT AREAS. A project funded under this
3 chapter must comply with Sections 386.055 and 386.056, as
4 applicable.

5 [Sections 391.005-391.100 reserved for expansion]

6 SUBCHAPTER B. GRANT APPLICATIONS

7 Sec. 391.101. APPLICATION FOR GRANT. (a) Any person, as
8 defined by Section 382.003, that owns a facility located within the
9 state may apply for a grant under the program established under
10 Section 391.002. The commission may adopt guidelines to allow a
11 person other than the owner to apply for and receive a grant in
12 order to improve the ability of the program to achieve its goals.

13 (b) An application for a grant under this chapter must be
14 made on a form provided by the commission and must contain
15 information required by the commission, including:

16 (1) a detailed description of the proposed project;

17 (2) information necessary for the commission to
18 determine whether the project meets eligibility requirements for
19 the type of project proposed, including a statement of the amounts
20 of any other public financial assistance the project will receive;
21 and

22 (3) other information the commission may require.

23 (c) An application for a grant under this chapter must
24 contain a plan for implementation of a program that will provide
25 project information and education to the public in the areas
26 subject to public notice under federal and state permitting
27 requirements for the proposed project until completion of the

1 permitting process. This plan shall include provision of a
2 publicly accessible informational website.

3 Sec. 391.102. GRANT APPLICATION REVIEW PROCEDURES.

4 (a) The commission shall review an application for a grant for a
5 project authorized under this chapter according to dates specified
6 in a request for grant applications. If the commission determines
7 that an application is incomplete, the commission shall notify the
8 applicant and provide an explanation of what is missing from the
9 application. The commission shall evaluate the completed
10 application according to the appropriate project criteria.

11 (b) To the extent possible, the commission shall coordinate
12 project review and approval with any timing constraints related to
13 project purchases or installations to be made by an applicant.

14 (c) The commission may deny an application for a project
15 that does not meet the applicable project criteria or that the
16 commission determines is not made in good faith, is not credible, or
17 is not in compliance with this chapter and the goals of this
18 chapter.

19 (d) Subject to the availability of funds, the commission
20 shall award a grant under this chapter in conjunction with the
21 execution of a contract that obligates the commission to make the
22 grant and the recipient to perform the actions described in the
23 recipient's grant application. Subject to Section 391.204, the
24 contract must incorporate provisions for recapturing grant money
25 for noncompliance with grant requirements. Grant money recaptured
26 under the contract provisions shall be deposited in the Texas
27 emissions reduction plan fund and reallocated for other projects

1 under this subchapter.

2 (e) An applicant may seek reimbursement for qualifying
3 equipment installed after the effective date of this program.

4 (f) In coordinating interagency application review
5 procedures, the commission:

6 (1) shall solicit review and comment from:

7 (A) the comptroller to assess the financial
8 stability of the applicant, the economic benefit and job creation
9 associated with the project, and any other information related to
10 the duties of that office;

11 (B) the Public Utility Commission of Texas to
12 assess the reliability of the proposed technology and the
13 feasibility and cost-effectiveness of electric transmission
14 associated with the project and any other information related to
15 the duties of that agency; and

16 (C) the Railroad Commission of Texas to assess
17 the availability and cost of the fuel involved with the project and
18 any other information related to the duties of that agency;

19 (2) shall incorporate the review results into the
20 grant award decision process; and

21 (3) as part of the report required under Section
22 391.104, shall justify awards made to projects that have been
23 negatively reviewed by agencies under Subdivision (1).

24 (g) The commission may solicit review and comment from other
25 state agencies or other entities with subject matter expertise, as
26 applicable, in reviewing grant applications.

27 Sec. 391.103. EVIDENCE OF EMISSIONS REDUCTION POTENTIAL

1 REQUIRED. (a) An application for a new technology implementation
2 grant under this chapter must show reasonable evidence that the
3 proposed technology is capable of providing a significant reduction
4 in emissions.

5 (b) The commission shall consider specifically, for each
6 proposed technology implementation grant application:

7 (1) the projected potential for reduced emissions and
8 the cost-effectiveness of the technology;

9 (2) the potential for the technology to contribute
10 significantly to air quality goals; and

11 (3) the strength of the implementation plan.

12 Sec. 391.104. REPORTING REQUIREMENTS. The commission shall
13 prepare an annual report that summarizes the applications received
14 and grant awards made in the preceding year. Preparation of the
15 report must include the participation of the state agencies
16 involved in the review of applications under Section 391.102.

17 [Sections 391.105-391.200 reserved for expansion]

18 SUBCHAPTER C. PROJECT REQUIREMENTS

19 Sec. 391.201. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The
20 commission shall establish criteria for setting priorities for
21 projects eligible to receive grants under this chapter. The
22 commission shall review and may modify the criteria and priorities
23 as appropriate.

24 (b) A proposed project must meet the requirements of this
25 section to be eligible for a grant under the program established
26 under Section 391.002.

27 (c) Each proposed project must meet the cost-effectiveness

1 requirements established by the commission.

2 (d) A new technology implementation project must document,
3 in a manner acceptable to the commission, a reduction of the
4 baseline emissions adopted by the commission for the relevant
5 facility or stationary source. After studying available emissions
6 reduction technologies, the commission may adopt a minimum
7 percentage reduction of emissions to be required by this subsection
8 to improve the ability of the program to achieve its goals.

9 (e) If a baseline emissions standard does not exist for a
10 facility, the commission, for purposes of this subchapter, shall
11 establish an appropriate baseline emissions level for comparison
12 purposes.

13 (f) Water usage for proposed projects must be consistent
14 with the state water plan.

15 Sec. 391.202. CALCULATION OF COST-EFFECTIVENESS. The
16 commission shall establish reasonable methodologies for evaluating
17 project cost-effectiveness consistent with accepted methods.

18 Sec. 391.203. COST-EFFECTIVENESS CRITERIA; DETERMINATION
19 OF GRANT AMOUNT. (a) The commission may not award a grant that,
20 net of taxes, provides an amount that exceeds the incremental cost
21 of the proposed project.

22 (b) In determining the amount of a grant under this
23 subchapter, the commission shall reduce the incremental cost of a
24 proposed project by the value of any existing financial incentive
25 that directly reduces the cost of the proposed project, including
26 tax credits or deductions, other grants, or any other public
27 financial assistance.

1 Sec. 391.204. COST SHARING. (a) The commission shall
2 require an applicant to bear at least 50 percent of the costs of
3 implementing a project funded under this chapter.

4 (b) The commission may not require repayment of grant money,
5 except that the commission must require provisions for recapturing
6 grant money for noncompliance with grant requirements.

7 Sec. 391.205. PREFERENCES. (a) In awarding grants under
8 this chapter and except as provided by Subsection (c), the
9 commission shall assign preference to:

10 (1) projects that use natural resources originating or
11 produced in the state;

12 (2) projects that contain an energy efficiency
13 component; or

14 (3) projects that include the use of solar, wind, or
15 other renewable energy sources.

16 (b) Higher preference shall be given to projects that
17 include more than one of the criteria described by Subsection (a).

18 (c) Preferences described by Subsection (a) may be assigned
19 only if the cost-effectiveness and emission performance of the
20 project is comparable to a project not claiming a preference
21 described by Subsection (a).

22 [Sections 391.206-391.300 reserved for expansion]

23 SUBCHAPTER D. FUNDING; EXPIRATION

24 Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a
25 grant under this chapter must use the grant to pay the incremental
26 costs of the purchase and installation of the project for which the
27 grant is made, which may include reasonable and necessary expenses

1 for the labor needed to install emissions-reducing equipment. The
2 recipient may not use the grant for the costs of operation and
3 maintenance of the emissions-reducing equipment.

4 Sec. 391.302. COMPTROLLER REVIEW OF USE OF GRANT FUNDS.

5 (a) The comptroller shall conduct an annual review of each
6 recipient of new technology implementation grant funds under this
7 chapter to ensure that the recipient's use of the funds complies
8 with state law and the terms of the award.

9 (b) To assist with a review under this section, the
10 commission shall provide the comptroller with all monitoring
11 reports received from grant recipients and any other documentation
12 requested by the comptroller.

13 (c) On a finding of any misuse of funds or other
14 noncompliance with grant requirements, the comptroller shall
15 report recommendations for subsequent action, including the
16 recapture of funds misused, to the commission.

17 (d) A finding of any misuse of grant funds by a recipient of
18 a grant under this chapter results in a debt owed to the state, and
19 the comptroller may place the recipient on warrant hold in
20 accordance with Section 403.055, Government Code.

21 (e) The comptroller may contract with another state agency,
22 an institution of higher education, or a private entity to conduct a
23 review under this section or to assist the comptroller in
24 conducting any part of the review.

25 (f) The comptroller may adopt rules to implement this
26 section.

27 Sec. 391.303. TIME OF USE OF GRANT FUNDING. Funds

1 appropriated for grants to be made by the commission under this
2 chapter for a fiscal year may be distributed in subsequent fiscal
3 years if the grant has been awarded and treated as a binding
4 encumbrance by the commission before the end of the appropriation
5 year of the funds appropriated for grant purposes. Distribution of
6 the grant funds is subject to Section 403.071, Government Code.

7 Sec. 391.304. EXPIRATION. This chapter expires August 31,
8 2019.

9 SECTION 2.06. Subsection (b), Section 403.071, Government
10 Code, is amended to read as follows:

11 (b) A claim may not be paid from an appropriation unless the
12 claim is presented to the comptroller for payment not later than two
13 years after the end of the fiscal year for which the appropriation
14 was made. However, a claim may be presented not later than four
15 years after the end of the fiscal year for which the appropriation
16 from which the claim is to be paid was made if the appropriation
17 relates to new construction contracts, to grants awarded under
18 Chapter 391, Health and Safety Code, or to repair and remodeling
19 projects that exceed the amount of \$20,000, including furniture and
20 other equipment, architects' and engineering fees, and other costs
21 related to the contracts or projects.

22 ARTICLE 3. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND
23 ACCELERATED VEHICLE RETIREMENT PROGRAM

24 SECTION 3.01. Subsection (d), Section 382.210, Health and
25 Safety Code, is amended to read as follows:

26 (d) A participating county shall provide an electronic
27 means for distributing vehicle repair or replacement funds once all

1 program criteria have been met with regard to the repair or
2 replacement. The county shall ensure that funds are transferred to
3 a participating dealer under this section not later than the 10th
4 [~~five~~] business day [~~days~~] after the date the county receives proof
5 of the sale and any required administrative documents from the
6 participating dealer.

7 SECTION 3.02. Subsection (c), Section 382.220, Health and
8 Safety Code, is amended to read as follows:

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

14 ARTICLE 4. TEXAS EMISSIONS REDUCTION PLAN

15 SECTION 4.01. Subsection (b-3), Section 501.138,
16 Transportation Code, is amended to read as follows:

17 (b-3) This subsection and Subsection (b-2) expire August
18 31, 2019 [~~September 1, 2015~~].

19 SECTION 4.02. Subsection (d), Section 151.0515, Tax Code,
20 is amended to read as follows:

21 (d) This section expires August 31, 2019 [~~2013~~].

22 SECTION 4.03. Subsection (c), Section 152.0215, Tax Code,
23 is amended to read as follows:

24 (c) This section expires August 31, 2019 [~~2013~~].

25 SECTION 4.04. Section 390.006, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 390.006. EXPIRATION. This chapter expires August 31,

1 2019 [~~2013~~].

2 SECTION 4.05. Section 386.001, Health and Safety Code, is
3 amended by adding Subdivision (10-a) to read as follows:

4 (10-a) "Stationary engine" means a machine that
5 converts fuel into mechanical motion, including turbines and other
6 internal combustion devices used in nonmobile applications.

7 SECTION 4.06. Section 386.002, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 386.002. EXPIRATION. This chapter expires August 31,
10 2019 [~~2013~~].

11 SECTION 4.07. Subsection (c), Section 386.104, Health and
12 Safety Code, is amended to read as follows:

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

1 requirements of Section 386.105. For a proposed project involving
2 a mobile generator used for natural gas recovery purposes that is
3 operated in a nonattainment area or affected county, the 75 percent
4 of hours of operation in a nonattainment area or affected county
5 projected for the project need not occur in the five years
6 immediately following the award of a grant.

7 SECTION 4.08. Chapter 386, Health and Safety Code, is
8 amended by adding Subchapters G and H to read as follows:

9 SUBCHAPTER G. PLUG-IN HYBRID MOTOR VEHICLE PURCHASE CREDIT PROGRAM

10 Sec. 386.301. DEFINITIONS. In this subchapter:

11 (1) "Golf cart" has the meaning assigned by Section
12 502.001, Transportation Code.

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

15 (3) "Motor vehicle" has the meaning assigned by
16 Section 386.151.

17 (4) "Neighborhood electric vehicle" means a motor
18 vehicle that:

19 (A) is originally manufactured to meet, and does
20 meet, the equipment requirements and safety standards established
21 for "low speed vehicles" in Federal Motor Vehicle Safety Standard
22 500 (49 C.F.R. Section 571.500);

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

27 (C) is a four-wheeled motor vehicle;

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

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

5 (F) is not a golf cart.

6 (5) "Plug-in hybrid motor vehicle" means a vehicle
7 that:

8 (A) draws motive power from a battery with a
9 capacity of at least four kilowatt-hours;

10 (B) can be recharged from an external source of
11 electricity for motive power; and

12 (C) is a light-duty motor vehicle capable of
13 operating at highway speeds, excluding golf carts and neighborhood
14 electric vehicles.

15 Sec. 386.302. COMMISSION DUTIES REGARDING PLUG-IN HYBRID
16 MOTOR VEHICLE PURCHASE CREDIT PROGRAM. (a) The commission shall
17 develop a credit-towards-purchase program for new plug-in hybrid
18 motor vehicles and shall adopt rules necessary to implement the
19 program.

20 (b) The program shall authorize statewide credits toward
21 the purchase of new plug-in hybrid motor vehicles for a purchaser
22 who is a state resident and who agrees to register the vehicle in
23 this state and operate the vehicle in this state for not less than
24 75 percent of the vehicle's annual mileage.

25 (c) Only one purchase credit may be provided for each new
26 plug-in hybrid motor vehicle.

27 Sec. 386.303. PLUG-IN HYBRID MOTOR VEHICLE PURCHASE CREDIT.

1 A new plug-in hybrid motor vehicle is eligible for a \$4,000 purchase
2 credit.

3 Sec. 386.304. MODIFICATION OF INCENTIVE. After evaluating
4 new technologies, the commission may change the purchase credit
5 established by Section 386.303 to improve the ability of the
6 program to achieve its goals.

7 Sec. 386.305. MANUFACTURER'S REPORT. Not later than July 1
8 of each year and preceding the beginning of the vehicle model year,
9 a manufacturer of motor vehicles shall provide to the commission a
10 list of the new vehicle models that the manufacturer intends to sell
11 in this state during that model year that meet the definition of
12 plug-in hybrid motor vehicles under Section 386.301. The
13 manufacturer may supplement the list provided to the commission
14 under this section as necessary to include additional new vehicle
15 models the manufacturer intends to sell in this state during the
16 model year.

17 Sec. 386.306. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On
18 August 1 of each year the commission shall publish a list of the new
19 model motor vehicles as listed for the commission under Section
20 386.305. The commission shall publish and supplement that list as
21 necessary to include additional new vehicle models listed in a
22 supplement to the original list provided by a manufacturer under
23 Section 386.305.

24 (b) The commission shall distribute the list of eligible
25 motor vehicles to all new motor vehicle dealers in this state.

26 Sec. 386.307. COMMISSION TO ACCOUNT FOR MOTOR VEHICLE
27 PURCHASE CREDITS. (a) The commission by rule shall develop a

1 method to administer and account for the motor vehicle purchase
2 credits authorized by this subchapter and to pay a refund for the
3 amount of the credit to a dealer of a new motor vehicle on
4 application of the dealer as provided by this subchapter.

5 (b) The commission shall develop and publish forms and
6 instructions for a new motor vehicle dealer to use in applying to
7 the commission for a refund for purchase credits authorized under
8 this subchapter.

9 (c) In addition to other forms developed and published under
10 this section, the commission shall develop and publish a
11 verification form by which, with information provided by the
12 dealer, the commission can verify the sale of a vehicle covered by
13 this subchapter. The verification form must include at least the
14 name of the purchaser, the vehicle identification number of the
15 vehicle, the date of the purchase, and the name of the new motor
16 vehicle dealer making the transaction. At the time of sale of a
17 vehicle eligible for a purchase credit under this subchapter, the
18 dealer shall complete the verification form supplied to the dealer
19 by the commission. The new motor vehicle dealer must include the
20 completed verification form as part of the dealer's application for
21 a refund. The dealer shall maintain a copy of the completed
22 verification form for at least two years after the date of the
23 transaction.

24 Sec. 386.308. SUSPENSION OF PURCHASE CREDITS. (a) The
25 commission shall track new motor vehicle dealer refund applications
26 and payments.

27 (b) If the balance of funds available for motor vehicle

1 purchase credits falls below 15 percent of the total allocated for
2 the credits during a fiscal year, the commission may suspend the
3 credits until the date the commission can certify that the balance
4 available in the fund for credits is an amount adequate to resume
5 the credits or the beginning of the next fiscal year, whichever is
6 earlier. If the commission suspends the purchase credits, the
7 commission shall immediately notify all new motor vehicle dealers
8 that the credits have been suspended.

9 (c) The commission shall establish a toll-free telephone
10 number and a website available to motor vehicle dealers to call or
11 access to easily verify that funds for purchase credits are
12 available. The commission may provide for issuing verification
13 numbers over the telephone or the website.

14 (d) Reliance by a dealer on information provided by the
15 commission is a complete defense to an action involving or based on
16 eligibility of a vehicle for a purchase credit or availability of
17 vehicles eligible for a purchase credit.

18 Sec. 386.309. EXPIRATION. This subchapter and the purchase
19 credit program authorized under this subchapter expire January 1,
20 2019.

21 [Sections 386.310-386.350 reserved for expansion]

22 SUBCHAPTER H. ENERGY-EFFICIENT APPLIANCE PURCHASE INCENTIVE
23 PROGRAM

24 Sec. 386.351. DEFINITION. In this subchapter,
25 "governmental entity" means the commissioners court of a
26 participating county or other appropriate governmental entity,
27 including a regional council of government or a metropolitan

1 planning organization.

2 Sec. 386.352. PURCHASE INCENTIVE PROGRAM. (a) The
3 commission is the supervising state agency for the energy-efficient
4 appliance purchase incentive program.

5 (b) The commission by rule shall establish, and authorize a
6 governmental entity to implement, an energy-efficient appliance
7 purchase incentive program subject to agency oversight that may
8 include reasonable periodic commission audits.

9 (c) The participating governmental entities shall use funds
10 provided for the program to provide financial incentives designed
11 to assist persons in the purchase of equipment and appliances that
12 meet or exceed the federal Energy Star standards designated by the
13 United States Environmental Protection Agency and the United States
14 Department of Energy.

15 (d) Programs approved under this section must include the
16 retirement of materials and appliances that contribute to energy
17 consumption or peak energy demand to ensure the reduction of energy
18 consumption, energy demand, or peak loads and of associated
19 emissions of air contaminants.

20 (e) Appliances funded under this section may include:

21 (1) air conditioning units; and

22 (2) refrigeration units.

23 Sec. 386.353. ADMINISTRATION OF INCENTIVE PROGRAM.

24 (a) Money allocated by the commission under the incentive program
25 developed under this subchapter shall be administered by the
26 governmental entity implementing the program. A participating
27 governmental entity shall be reimbursed from the fund for costs

1 incurred in administering the incentive program established under
2 this subchapter. Reimbursable administrative costs of a
3 participating governmental entity may not exceed 10 percent of the
4 entity's total program budget.

5 (b) The commission and implementing governmental entities
6 may accept gifts, grants, or other assistance for the purpose of
7 implementing this section.

8 Sec. 386.354. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

9 (a) The commission by rule shall adopt guidelines to assist a
10 participating governmental entity in implementing an
11 energy-efficient appliance purchase incentive program. The
12 guidelines at a minimum shall recommend:

13 (1) a minimum and maximum amount towards purchase of
14 eligible appliances; and

15 (2) criteria for determining eligibility, taking into
16 account:

17 (A) the extent to which the incentive will reduce
18 energy consumption, energy demand, or peak loads and reduce
19 associated emissions of air contaminants;

20 (B) the condition of materials and appliances to
21 be retired; and

22 (C) any other relevant considerations.

23 (b) A participating governmental entity shall provide an
24 electronic means for distributing energy-efficient appliance
25 purchase incentive funds once all program criteria have been met
26 with regard to the purchase. The governmental entity shall ensure
27 that funds are transferred to the purchaser not later than 14

1 business days after the date the governmental entity receives proof
2 of the purchase and any required administrative documents from the
3 purchaser.

4 SECTION 4.09. Subsection (b), Section 152.002, Tax Code, is
5 amended to read as follows:

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

7 (1) a cash discount;

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

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

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

16 (5) the value of a motor vehicle taken by a seller as
17 all or a part of the consideration for sale of another motor
18 vehicle, including any cash payment to the buyer under Section
19 348.404, Finance Code;

20 (6) a charge for transportation of the motor vehicle
21 after a sale;

22 (7) motor vehicle inventory tax; or

23 (8) an amount made available to the customer under
24 Subchapter G, Chapter 382, or Subchapter G, Chapter 386, Health and
25 Safety Code.

ARTICLE 5. NEW TECHNOLOGY RESEARCH
AND DEVELOPMENT PROGRAM

SECTION 5.01. Subsections (a) and (b), Section 386.252, Health and Safety Code, are amended 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 and not more than 10 percent may be used for on-road diesel purchase or lease incentives; not more than 10 percent may be used for the new technology implementation program, of which a defined amount may be set aside for electricity storage projects related to renewable energy; and a specified percentage may be used for light-duty plug-in hybrid motor vehicle purchase credits;

(2) for the new technology research and development program, nine ~~[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 the energy-efficient appliance purchase incentive program created under Subchapter H ~~[research related to air quality for the Houston-Calveston-Brazoria and Dallas-Fort Worth nonattainment~~

1 ~~areas by a nonprofit organization based in Houston of which~~
2 ~~\$216,000 each year shall be contracted to the Energy Systems~~
3 ~~Laboratory at the Texas Engineering Experiment Station for the~~
4 ~~development and annual calculation of creditable statewide~~
5 ~~emissions reductions obtained through wind and other renewable~~
6 ~~energy resources for the State Implementation Plan], and the~~
7 balance is to be allocated each year to the commission [~~a nonprofit~~
8 ~~organization or an institution of higher education based in~~
9 ~~Houston]~~ to be used to implement and administer the new technology
10 research and development program [~~under a contract with the~~
11 ~~commission]~~ for the purpose of identifying, testing, and evaluating
12 new emissions-reducing technologies with potential for
13 commercialization in this state and to facilitate their
14 certification or verification of which, a portion shall be
15 allocated for research related to air quality administered by a
16 nonprofit organization or an institution of higher education; and

17 (3) for administrative costs incurred by the
18 commission and the laboratory, 3.5 [~~three~~] percent of the money in
19 the fund, of which two percent is allocated to the commission and
20 1.5 percent is allocated to the laboratory.

21 (b) The [~~Up to 25 percent of the~~] money allocated under
22 Subsection (a) to a particular program [~~and not expended under that~~
23 ~~program by January 1 of the second fiscal year of a fiscal biennium]~~
24 may be used for another program under the plan as determined by the
25 commission [~~in consultation with the advisory board~~].

26 SECTION 5.02. Section 387.003, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 387.003. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT
2 PROGRAM. (a) The commission [~~A nonprofit organization or~~
3 ~~institution of higher education described by Section~~
4 ~~386.252(a)(2), under a contract with the commission as described by~~
5 ~~that section,~~] shall establish and administer a new technology
6 research and development program as provided by this chapter. The
7 commission may contract with one or more well-qualified nonprofit
8 organizations or institutions of higher education for
9 administration of this program [~~more than one entity and may limit~~
10 ~~the amount of each grant contract accordingly~~].

11 (b) Under the program, the commission shall provide grants
12 to be used to support development of emissions-reducing
13 technologies that may be used for projects eligible for awards
14 under Chapters [~~Chapter~~] 386 and 391 and other new technologies
15 that show promise for commercialization. The primary objective of
16 this chapter is to promote the development of commercialization
17 technologies to reduce emissions of oxides of nitrogen in Texas
18 nonattainment areas [~~that will support projects that may be funded~~
19 ~~under Chapter 386 and this chapter, including advanced technologies~~
20 ~~such as fuel cells, catalysts, and fuel additives~~].

21 (c) If the commission contracts with one or more nonprofit
22 organizations or institutions of higher education to [~~The board of~~
23 ~~directors of a nonprofit organization under contract with the~~
24 ~~commission to establish and~~] administer a new technology research
25 and development program under [~~as provided by~~] this chapter, the
26 board of directors of each organization may not have more than 11
27 members, must include two persons of relevant scientific expertise

1 to be nominated by the commission, and may not include more than
2 four county judges [~~selected from counties in the~~
3 ~~Houston-Calveston-Brazoria and Dallas-Fort Worth nonattainment~~
4 ~~areas~~]. The two persons of relevant scientific expertise to be
5 nominated by the commission may be employees or officers of the
6 commission, provided that they do not participate in funding
7 decisions affecting the granting of funds by the commission to a
8 nonprofit organization on whose board they serve.

9 (d) [~~The commission may enter into a grant contract with an~~
10 ~~institution of higher education described by Section 386.252(a)(2)~~
11 ~~for the institution to operate a testing facility which would be~~
12 ~~available for demonstration of eligible projects receiving grants~~
13 ~~under this chapter.~~

14 [~~(e)~~] The commission shall provide oversight as appropriate
15 for grants provided to a nonprofit organization or an institution
16 of higher education under this program.

17 (e) [~~(f)~~] A nonprofit organization or an institution of
18 higher education shall submit to the commission for approval a
19 budget for the disposition of funds granted under this program.

20 (f) [~~(g)~~] The commission shall limit the use of grants for
21 administrative costs incurred by a nonprofit organization or an
22 institution of higher education to an amount not to exceed 10
23 percent of the total program funding [~~provided to the nonprofit~~
24 ~~organization under this program~~].

25 (g) [~~(h)~~] A nonprofit organization that receives grants
26 from the commission under this program is subject to Chapters 551
27 and 552, Government Code.

1 SECTION 5.03. Section 387.004, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS.
4 The commission from time to time shall issue or contract with a
5 nonprofit organization or an institution of higher education
6 described by Section 387.003(a) [~~386.252(a)(2)~~] to issue specific
7 requests for proposals (RFPs) or program opportunity notices (PONs)
8 for technology projects to be funded under the program.

9 SECTION 5.04. Subsections (a), (b), and (f), Section
10 387.005, Health and Safety Code, are amended to read as follows:

11 (a) Grants awarded under this chapter shall be directed
12 toward a balanced mix of:

13 (1) retrofit and add-on technologies and other
14 advanced technologies that reduce emissions from the existing stock
15 of engines and vehicles targeted by the Texas emissions reduction
16 plan, provided that the technologies do not significantly reduce
17 the fuel economy of those engines and vehicles;

18 (2) [~~the establishment of a testing facility to~~
19 ~~evaluate retrofits, add-ons, advanced technologies, and fuels, or~~
20 ~~combinations of retrofits, add-ons, advanced technologies, and~~
21 ~~fuels, to determine their effectiveness in producing emissions~~
22 ~~reductions, with emphasis on the reduction of oxides of nitrogen, and~~

23 [~~(3)~~] advanced technologies for new engines and
24 vehicles that produce very-low or zero emissions of oxides of
25 nitrogen, including stationary and mobile fuel cells;

26 (3) advanced technologies for reducing oxides of
27 nitrogen and other emissions from stationary sources; and

1 (4) field validation of innovative technologies for
2 reducing emissions of oxides that require demonstration of
3 viability for full commercial acceptance.

4 (b) The commission, directly or through a nonprofit
5 organization or an institution of higher education described by
6 Section 387.003(a) [~~386.252(a)(2)~~], shall identify and evaluate
7 and may consider making grants for technology projects that would
8 allow qualifying fuels to be produced from energy resources in this
9 state. In considering projects under this subsection, the
10 commission shall give preference to projects involving otherwise
11 unusable energy resources in this state and producing qualifying
12 fuels at prices lower than otherwise available and low enough to
13 make the projects to be funded under the program economically
14 attractive to local businesses in the area for which the project is
15 proposed.

16 (f) Selection of grant recipients by a nonprofit
17 organization or an institution of higher education described by
18 Section 387.003(a) [~~386.252(a)(2)~~] under contract with the
19 commission for the purpose of establishing and administering a new
20 technology research and development program as provided by this
21 chapter is subject to the commission's review and to the other
22 requirements of this chapter. A grant contract under this chapter
23 using funds described by Section 386.252 may not be made by a
24 nonprofit organization or an institution of higher education if the
25 commission or executive director of the commission does not consent
26 to the grant or contract.

27 SECTION 5.05. Section 387.006, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 387.006. EVIDENCE OF COMMERCIALIZATION POTENTIAL
3 REQUIRED. (a) An application for a technology grant under this
4 chapter must show reasonable [~~clear and compelling~~] evidence that:

5 (1) the proposed technology project has a substantial
6 [~~strong~~] commercialization plan and organization; and

7 (2) the technology proposed for funding[+
8 [~~(A)~~] is likely to be offered for commercial sale
9 in this state as soon as practicable [~~but no later than five years~~]
10 after the date of the application for funding[; and

11 [~~(B) once commercialized, will offer~~
12 ~~opportunities for projects eligible for funding under Chapter 386~~].

13 (b) The commission shall consider specifically, for each
14 proposed technology project application:

15 (1) the projected potential for reduced emissions of
16 oxides of nitrogen and the cost-effectiveness of the technology
17 once it has been commercialized, including the impact on fuel
18 consumption and maintenance costs for retrofits and rebuilds;

19 (2) the potential for the technology to contribute
20 significantly to air quality goals; and

21 (3) the strength of the commercialization plan.

22 SECTION 5.06. Chapter 387, Health and Safety Code, is
23 amended by adding Section 387.010 to read as follows:

24 Sec. 387.010. AIR QUALITY RESEARCH. (a) A nonprofit
25 organization or institution of higher education described by
26 Section 386.252(a)(2), under a contract with the commission, shall
27 establish and administer a program under this section supporting

1 research related to air quality.

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

14 (c) The commission shall provide oversight as appropriate
15 for grants provided to a nonprofit organization under the program
16 established under this section.

17 (d) A nonprofit organization shall submit to the commission
18 for approval a budget for the disposition of funds granted under the
19 program established under this section.

20 (e) A nonprofit organization shall be reimbursed for costs
21 incurred in establishing and administering the research program
22 related to air quality under this section. Reimbursable
23 administrative costs of a nonprofit organization may not exceed 10
24 percent of the organization's total program budget.

25 (f) A nonprofit organization that receives grants from the
26 commission under this section is subject to Chapters 551 and 552,
27 Government Code.

ARTICLE 6. BUILDING ENERGY CODES

SECTION 6.01. Section 388.003, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) To achieve energy conservation in single-family and duplex residential construction, the energy efficiency provisions [chapter] of the International Residential Code, as it existed on May 1, 2001, is adopted as the energy code in this state for single-family and duplex residential construction. Beginning January 1, 2012, the energy efficiency provisions of the International Residential Code, as it existed on May 1, 2009, is adopted as the energy code in this state for single-family and duplex residential construction.

(a-1) For the purposes of energy code compliance under the limited statutory warranties and building and performance standards under Section 430.001, Property Code, and inspections of new residential construction required under Subtitle F, Title 16, Property Code, Subsection (a) of this section controls for single-family and duplex residential construction located in unincorporated areas not in the extraterritorial jurisdiction of a municipality. To the extent of any conflict between this subsection and any other law, including Section 430.001, Property Code, this subsection prevails.

(b) To achieve energy conservation in all other residential, commercial, and industrial construction, the International Energy Conservation Code as it existed on May 1, 2001, is adopted as the energy code for use in this state for all

1 other residential, commercial, and industrial construction.
2 Beginning January 1, 2012, the International Energy Conservation
3 Code, as it existed on May 1, 2009, is adopted as the energy code in
4 this state for all other residential, commercial, and industrial
5 construction.

6 SECTION 6.02. Subsection (b-1), Section 388.003, Health and
7 Safety Code, as added by Section 3.01, Chapter 262 (S.B. 12), Acts
8 of the 80th Legislature, Regular Session, 2007, is amended to read
9 as follows:

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

27 SECTION 6.03. Subsections (c), (d), (e), and (f), Section

1 388.003, Health and Safety Code, are amended to read as follows:

2 (c) A municipality shall establish procedures:

3 (1) for the administration and enforcement of the
4 codes; and

5 (2) to ensure that code-certified inspectors or
6 approved energy efficiency program verifiers shall perform
7 inspections and enforce the code in the inspectors' jurisdictions.

8 (d) A municipality [~~or county~~] may establish procedures to
9 adopt local amendments to the International Energy Conservation
10 Code and the energy efficiency provisions [~~chapter~~] of the
11 International Residential Code.

12 (e) Local amendments may not result in less stringent
13 overall energy efficiency requirements [~~in nonattainment areas and~~
14 ~~in affected counties~~] than the energy efficiency chapter of the
15 International Residential Code or International Energy
16 Conservation Code. Local amendments must comply with the National
17 Appliance Energy Conservation Act of 1987 (42 U.S.C. Sections
18 6291-6309), as amended. The laboratory, at the request of a
19 municipality or county, shall determine the relative impact of
20 proposed local amendments to an energy code, including whether
21 proposed amendments are substantially equal to or less stringent
22 than the unamended code. [~~For the purpose of establishing uniform~~
23 ~~requirements throughout a region, and on request of a council of~~
24 ~~governments, a county, or a municipality, the laboratory may~~
25 ~~recommend a climatically appropriate modification or a climate zone~~
26 ~~designation for a county or group of counties that is different from~~
27 ~~the climate zone designation in the unamended code.] The~~

1 laboratory shall:

2 (1) report its findings to the council, county, or
3 municipality, including an estimate of any energy savings potential
4 above the base code from local amendments; and

5 (2) annually submit a report to the commission:

6 (A) identifying the municipalities and counties
7 whose codes are more stringent than the unamended code, and whose
8 codes are equally stringent or less stringent than the unamended
9 code; and

10 (B) quantifying energy savings and emissions
11 reductions from this program.

12 (f) Each municipality, and each county that has established
13 procedures under Subsection (d), shall periodically review and
14 consider revisions made by the International Code Council to the
15 International Energy Conservation Code and the energy efficiency
16 chapter of the International Residential Code adopted after May 1,
17 2009 [~~2001~~].

18 SECTION 6.04. Chapter 388, Health and Safety Code, is
19 amended by adding Section 388.0035 to read as follows:

20 Sec. 388.0035. REQUIREMENT OF COMPATIBILITY WITH PLUG-IN
21 MOTOR VEHICLES. The State Energy Conservation Office by rule shall
22 amend the energy code as adopted under Section 388.003 to require
23 that buildings newly constructed after January 1, 2012, have an
24 electrical system, including outlets, that is capable of recharging
25 plug-in electric or plug-in hybrid electric motor vehicles.

26 SECTION 6.05. The following provisions of the Health and
27 Safety Code are repealed:

1 (1) Subsection (b-1), Section 388.003, as added by
2 Section 11, Chapter 939 (H.B. 3693), Acts of the 80th Legislature,
3 Regular Session, 2007; and

4 (2) Subsection (b-2), Section 388.003, as added by
5 Section 3.01, Chapter 262 (S.B. 12), Acts of the 80th Legislature,
6 Regular Session, 2007.

7 ARTICLE 7. IDLING OF MOTOR VEHICLES

8 SECTION 7.01. Section 382.0191, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 382.0191. IDLING OF MOTOR VEHICLE WHILE USING SLEEPER
11 BERTH. (a) In this section, "idling" means allowing an engine to
12 run while the motor vehicle is not engaged in forward or reverse
13 motion.

14 (b) Except as provided by Subsection (c), the [The]
15 commission may not prohibit or limit the idling of any [a] motor
16 vehicle with a gross vehicle weight rating greater than 8,500
17 pounds that is equipped with a 2008 or subsequent model year
18 heavy-duty diesel engine that has been certified by the United
19 States Environmental Protection Agency or another state
20 environmental agency to emit no more than 30 grams of nitrogen
21 oxides emissions per hour when idling [is necessary to power a
22 heater or air conditioner while a driver is using the vehicle's
23 sleeper berth for a government-mandated rest period. Idling is not
24 necessary to power a heater or air conditioner if the vehicle is
25 within two miles of a facility offering external heating and air
26 conditioning connections at a time when those connections are
27 available].

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

7 (d) This section expires November [~~September~~] 1, 2010
8 [~~2009~~].

9 ARTICLE 8. EXEMPTION OF THE WEIGHT OF CERTAIN IDLE REDUCTION
10 SYSTEMS FOR COMMERCIAL VEHICLES FROM MAXIMUM WEIGHT RESTRICTIONS

11 SECTION 8.01. Section 621.001, Transportation Code, is
12 amended to read as follows:

13 Sec. 621.001. DEFINITIONS. In this chapter:

14 (1) "Commercial motor vehicle" means a motor vehicle,
15 other than a motorcycle, designed or used for:

16 (A) the transportation of property; or

17 (B) delivery purposes.

18 (2) "Commission" means the Texas Transportation
19 Commission.

20 (3) "Department" means the Texas Department of
21 Transportation.

22 (4) "Director" means the executive director of the
23 Texas Department of Transportation.

24 (5) "Idle reduction system" means any system that
25 provides heating, cooling, or electrical service to a commercial
26 vehicle cab for the purpose of reducing vehicle idling.

27 (6) "Motor vehicle" means a vehicle that is

1 self-propelled.

2 (7) [~~(6)~~] "Semitrailer" means a vehicle without motive
3 power that is designed, or used with a motor vehicle, so that some
4 of its weight and the weight of its load rests on or is carried by
5 the motor vehicle.

6 (8) [~~(7)~~] "Trailer" means a vehicle without motive
7 power that is:

8 (A) designed or used to carry property or
9 passengers on its own structure exclusively; and

10 (B) drawn by a motor vehicle.

11 (9) [~~(8)~~] "Truck-tractor" means a motor vehicle
12 designed or used primarily for drawing another vehicle:

13 (A) that is not constructed to carry a load other
14 than a part of the weight of the vehicle and load being drawn; or

15 (B) that is engaged with a semitrailer in the
16 transportation of automobiles or boats and that transports the
17 automobiles or boats on part of the truck-tractor.

18 (10) [~~(9)~~] "Vehicle" means a mechanical device, other
19 than a device moved by human power or used exclusively upon
20 stationary rails or tracks, in, on, or by which a person or property
21 can be transported on a public highway. The term includes a motor
22 vehicle, commercial motor vehicle, truck-tractor, trailer, or
23 semitrailer but does not include manufactured housing as defined by
24 Chapter 1201, Occupations Code.

25 (11) [~~(10)~~] "Single axle weight" means the total
26 weight transmitted to the road by all wheels whose centers may be
27 included between two parallel transverse vertical planes 40 inches

1 apart, extending across the full width of the vehicle.

2 (12) [~~(11)~~] "Tandem axle weight" means the total
3 weight transmitted to the road by two or more consecutive axles
4 whose centers may be included between parallel transverse vertical
5 planes spaced more than 40 inches and not more than 96 inches apart,
6 extending across the full width of the vehicle.

7 (13) [~~(12)~~] "Port of entry" means a place designated
8 by executive order of the president of the United States, by order
9 of the United States secretary of the treasury, or by act of the
10 United States Congress at which a customs officer is authorized to
11 accept entries of merchandise, collect duties, and enforce customs
12 and navigation laws. The term includes a publicly owned or
13 privately owned international port of entry between this state and
14 the United Mexican States.

15 SECTION 8.02. Section 621.101, Transportation Code, is
16 amended by adding Subsection (d) to read as follows:

17 (d) Notwithstanding any provision of this section or any
18 other section to the contrary, the maximum gross vehicle weight
19 limit, bridge formula limit, and axle weight limit for any vehicle
20 or combination of vehicles equipped with an idle reduction system
21 may be increased by a quantity necessary to compensate for the
22 additional weight of the idle reduction system as provided for in 23
23 U.S.C. Section 127. In no case shall the additional weight increase
24 allowed by this subsection be greater than 400 pounds. On request
25 by an appropriate law enforcement officer, the vehicle operator
26 shall provide proof that the idle reduction technology is fully
27 functional at all times and that the gross weight increase is not

1 used for any purpose other than for use as an idle reduction system.

2 ARTICLE 9. APPLIANCE EFFICIENCY STANDARDS

3 SECTION 9.01. Subtitle C, Title 5, Health and Safety Code,
4 is amended by adding Chapter 392 to read as follows:

5 CHAPTER 392. APPLIANCE EFFICIENCY STANDARDS

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 392.001. DEFINITIONS. In this chapter:

8 (1) "Bottle-type water dispenser" means a water
9 dispenser that uses a bottle or reservoir as the source of potable
10 water.

11 (2) "Commercial hot food holding cabinet" means a
12 heated, fully enclosed compartment with one or more solid or glass
13 doors that is designed to maintain the temperature of hot food that
14 has been cooked in a separate appliance.

15 (3) "Compact audio product," also known as a mini,
16 mid, micro, or shelf audio system, means an integrated audio system
17 encased in a single housing that includes an amplifier and radio
18 tuner with attached or separable speakers that can reproduce audio
19 from magnetic tape, compact disc, DVD, or flash memory.

20 (4) "Digital versatile disc" or "DVD" means a
21 laser-encoded plastic medium capable of storing a large amount of
22 digital audio, video, or computer data.

23 (5) "DVD player" means a digital versatile disc player
24 that:

25 (A) is a commercially available electronic
26 product encased in a single housing that includes an integral power
27 supply; and

1 (B) is designed to decode digitized video signals
2 on a DVD.

3 (6) "DVD recorder" means a digital versatile disc
4 recorder that:

5 (A) is a commercially available electronic
6 product encased in a single housing that includes an integral power
7 supply; and

8 (B) is designed for the production or recording
9 of digitized video signals on a DVD.

10 (7) "Energy Star Program" means the United States
11 Environmental Protection Agency's Energy Star Program.

12 (8) "Portable electric spa" means a factory-built
13 electric spa or hot tub, supplied with equipment for heating and
14 circulating water.

15 (9) "Residential pool pump" means a pump used to
16 circulate and filter residential swimming pool water to maintain
17 the water's clarity and sanitation.

18 (10) "Water dispenser" means a factory-made assembly
19 that mechanically cools and heats potable water and that dispenses
20 the cooled or heated water by integral or remote means.

21 Sec. 392.002. APPLICABILITY; EXEMPTIONS. (a) This
22 chapter applies to the following new products sold, offered for
23 sale, or installed in this state:

24 (1) bottle-type water dispensers;

25 (2) commercial hot food holding cabinets;

26 (3) compact audio products;

27 (4) DVD players and recorders;

1 (5) portable electric spas; and

2 (6) residential pool pumps.

3 (b) This chapter does not apply to:

4 (1) a new product manufactured in this state and sold
5 outside the state;

6 (2) a new product manufactured outside this state and
7 sold at wholesale inside the state for final retail sale and
8 installation outside the state;

9 (3) a product installed in a mobile manufactured home
10 at the time of the home's construction;

11 (4) a product designed expressly for installation and
12 use in a recreational vehicle;

13 (5) a commercial heated glass merchandising cabinet,
14 dresser warmer, or cook-and-hold appliance for hot food;

15 (6) a compact audio product that:

16 (A) can be independently powered by internal
17 batteries;

18 (B) has a powered external satellite antenna; or

19 (C) can provide a video output signal; or

20 (7) a DVD recorder that has an electronic programming
21 guide function that provides an interactive, onscreen menu of
22 television listings and that downloads program information from the
23 vertical blanking interval of a regular television signal.

24 [Sections 392.003-392.050 reserved for expansion]

25 SUBCHAPTER B. EFFICIENCY STANDARDS

26 Sec. 392.051. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN
27 APPLIANCES. (a) Not later than September 1, 2010, the

1 comptroller, in consultation with the state energy conservation
2 office, shall adopt rules establishing minimum efficiency
3 standards for each type of new product described by Section
4 392.002(a).

5 (b) If the United States Environmental Protection Agency or
6 the United States Department of Energy adopt an Energy Star rating
7 for any appliance covered by this chapter, the standard contained
8 in this chapter is preempted by the federal requirements.

9 Sec. 392.052. NEW OR INCREASED EFFICIENCY STANDARDS.

10 (a) The comptroller may adopt rules to establish increased
11 efficiency standards for a product listed in Section 392.002(a) or
12 to establish standards for a product not listed in that subsection.

13 (b) In considering new or increased standards, the
14 comptroller, in consultation with the state energy conservation
15 office, shall prescribe new or increased efficiency standards if
16 the comptroller determines that the standards would:

17 (1) serve to promote energy conservation in this
18 state; and

19 (2) be cost-effective for consumers who purchase and
20 use the new product.

21 Sec. 392.053. EFFECTIVE DATE OF STANDARDS. A standard
22 established under this subchapter takes effect on the first
23 anniversary of the date the rule establishing the standard is
24 adopted.

25 Sec. 392.054. BOTTLE-TYPE WATER DISPENSERS. A bottle-type
26 water dispenser designed for dispensing both hot and cold water may
27 not have standby energy consumption greater than 1.2 kilowatt-hours

1 per day, as measured in accordance with the test criteria contained
2 in version 1 of the "Energy Star Program Requirements for Bottled
3 Water Coolers," except that Section D, "Timer Usage," of those test
4 criteria may not be used to test units with an integral automatic
5 timer.

6 Sec. 392.055. COMMERCIAL HOT FOOD HOLDING CABINETS. (a) A
7 commercial hot food holding cabinet must have a maximum idle energy
8 rate of not greater than 40 watts per cubic foot of interior volume,
9 as determined by the "idle energy rate-dry test" in ASTM F2140-01,
10 "Standard Test Method for Performance of Hot Food Holding
11 Cabinets," copyright 2007 ASTM International.

12 (b) Interior volume of a commercial hot food holding cabinet
13 must be measured in accordance with the method shown in the "Energy
14 Star Program Requirements for Commercial Hot Food Holding Cabinets"
15 as in effect on August 15, 2003.

16 Sec. 392.056. COMPACT AUDIO PRODUCTS. A compact audio
17 product may not use more than two watts in standby-passive mode for
18 a product without a permanently illuminated clock display and four
19 watts in standby-passive mode for a product with a permanently
20 illuminated clock display, as measured in accordance with
21 International Electrotechnical Commission (IEC) test method
22 62087:2002-2003(E), "Methods of Measurement for the Power
23 Consumption of Audio, Video, and Related Equipment."

24 Sec. 392.057. DVD PLAYERS OR RECORDERS. A DVD player or
25 recorder may not use more than three watts in standby-passive mode,
26 as measured in accordance with International Electrotechnical
27 Commission (IEC) test method 62087:2002-2003(E), "Methods of

1 Measurement for the Power Consumption of Audio, Video, and Related
2 Equipment."

3 Sec. 392.058. PORTABLE ELECTRIC SPAS. A portable electric
4 spa may not have a standby power greater than 5(v) watts where v
5 equals the total volume in gallons. Standby power must be measured
6 in accordance with the test method for portable electric spas
7 contained in Section 1604, Title 20, California Code of
8 Regulations, as of December 2006.

9 Sec. 392.059. RESIDENTIAL POOL PUMP MOTORS. (a) A
10 residential pool pump motor manufactured on or after January 1,
11 2006, may not be a split-phase or capacitor start-induction run
12 type motor.

13 (b)(1) A residential pool pump motor with a pool pump motor
14 capacity of one horsepower or more that is manufactured on or after
15 January 1, 2008, must be capable of operating at two or more speeds
16 with a low speed having a rotation rate that is not more than
17 one-half of the motor's maximum rotation rate. The pump motor must
18 be operated with a pump control that has the capability of operating
19 the pump at a minimum of two speeds.

20 (2) A residential pool pump motor with a pool pump
21 motor capacity of one horsepower or more that is manufactured on or
22 after January 1, 2010, and installed in existing residential pool
23 pumps as a replacement residential pool pump motor must be capable
24 of operating at two or more speeds with a low speed having a
25 rotation rate that is not more than one-half of the motor's maximum
26 rotation rate. The pump motor must be operated with a pump control
27 that is capable of operating the pump at a minimum of two speeds.

1 (c) A pool pump motor control manufactured on or after
2 January 1, 2008, that is sold for use with a pool pump capable of
3 operating at two or more speeds must be able to operate the pool
4 pump at a minimum of two speeds. The control's default circulation
5 speed setting may be no more than one-half of the motor's maximum
6 rotation rate. Any high-speed override capability must be for a
7 temporary period not to exceed one 24-hour cycle without resetting
8 to default settings.

9 Sec. 392.060. TRACKING, REPORTING, AND CLAIMING EMISSION
10 REDUCTION CREDITS ASSOCIATED WITH ENERGY EFFICIENCY. The Texas
11 Commission on Environmental Quality shall work with the Energy
12 Systems Laboratory at the Texas Engineering Experiment Station of
13 The Texas A&M University System to ensure that the state receives
14 full credit in the state implementation plan for air emission
15 reductions achieved through energy efficiency.

16 [Sections 392.061-392.100 reserved for expansion]

17 SUBCHAPTER C. IMPLEMENTATION AND MODIFICATION OF EFFICIENCY

18 STANDARDS

19 Sec. 392.101. PRODUCT COMPLIANCE. (a) A new product
20 described by Section 392.002(a) may not be sold or offered for sale
21 in this state unless the efficiency of the new product meets or
22 exceeds the applicable efficiency standards prescribed by the rules
23 adopted under Subchapter B.

24 (b) On or after the first anniversary of the date for the
25 sale or offering for sale of a new product subject to an efficiency
26 standard adopted under this chapter, that product may not be
27 installed for compensation in this state unless the efficiency of

1 the product meets or exceeds the applicable efficiency standards
2 prescribed by the rules adopted under Subchapter B.

3 [Sections 392.102-392.150 reserved for expansion]

4 SUBCHAPTER D. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

5 Sec. 392.151. PRODUCT TESTING. (a) The manufacturer of a
6 new product subject to an efficiency standard adopted under this
7 chapter shall test samples of the product in accordance with the
8 test procedures adopted under this chapter.

9 (b) The comptroller, in consultation with the state energy
10 conservation office, by rule shall adopt test procedures for
11 determining a product's energy efficiency if Subchapter B does not
12 provide for the procedures. The comptroller shall adopt test
13 methods approved by the United States Department of Energy or, in
14 the absence of those test methods, other appropriate nationally
15 recognized test methods.

16 (c) The comptroller may adopt revised test procedures when
17 new versions of test procedures become available.

18 Sec. 392.152. PRODUCT CERTIFICATION. (a) Except as
19 provided by Subsection (c), the manufacturer of a new product
20 subject to an efficiency standard adopted under this chapter shall
21 certify to the comptroller that the product is in compliance with
22 that standard according to test results.

23 (b) The comptroller shall adopt rules governing the
24 certification of products under this section and shall coordinate
25 certification by this state with the certification programs of
26 other states and federal agencies with similar standards.

27 (c) Subsection (a) does not apply to a manufacturer of

1 single-voltage external AC to DC power supplies, walk-in
2 refrigerators, or walk-in freezers.

3 Sec. 392.153. PRODUCT LABELING. (a) The manufacturer of a
4 new product subject to an efficiency standard adopted under this
5 chapter shall identify each product offered for sale or
6 installation in this state as being in compliance with this chapter
7 by means of a mark, label, or tag on the product and packaging at the
8 time of sale or installation.

9 (b) The comptroller shall adopt rules governing the
10 identification of products and packaging under this section. The
11 rules must to the greatest practical extent be coordinated with the
12 labeling programs of other states and federal agencies with
13 equivalent efficiency standards. The comptroller shall allow the
14 use of existing marks, labels, or tags that connote compliance with
15 the efficiency requirements of this chapter.

16 Sec. 392.154. COMPTROLLER TESTING FOR EFFICIENCY STANDARDS
17 COMPLIANCE. (a) The comptroller may test products subject to an
18 efficiency standard adopted under this chapter for compliance with
19 the applicable efficiency standards. If a product tested is found
20 not to be in compliance with the standards, the comptroller shall
21 impose against the manufacturer of the product an assessment in an
22 amount sufficient to recover the costs of purchasing and testing
23 the product.

24 (b) The comptroller shall make information available to the
25 public on any product found under this section not to be in
26 compliance with the standards.

27 Sec. 392.155. INSPECTIONS. The comptroller may have

1 periodic inspections conducted of a distributor or retailer of new
2 products covered by Section 392.002 subject to an efficiency
3 standard adopted under this chapter to determine compliance with
4 this chapter. The inspections must be conducted at reasonable and
5 convenient hours. Notice must be given before an inspection may be
6 conducted.

7 Sec. 392.156. COMPLAINTS. The comptroller shall
8 investigate a complaint received concerning a violation of this
9 chapter and shall report the results of the investigation to the
10 attorney general.

11 Sec. 392.157. ATTORNEY GENERAL ENFORCEMENT. The attorney
12 general may institute proceedings to enforce this chapter.

13 Sec. 392.158. VIOLATIONS AND PENALTIES. (a) The
14 comptroller shall issue a warning to a person for the person's first
15 violation of this chapter.

16 (b) A person's second and subsequent violations are subject
17 to a civil penalty of not more than \$250.

18 (c) Each violation constitutes a separate violation, and
19 each day that a violation continues constitutes a separate
20 violation.

21 (d) A penalty assessed under this section is in addition to
22 costs assessed under Section 392.154.

23 Sec. 392.159. RULES FOR IMPLEMENTATION AND ENFORCEMENT.
24 The comptroller may adopt additional rules as necessary to ensure
25 the proper implementation and enforcement of this chapter.

26 SECTION 9.02. (a) The efficiency standards prescribed by
27 rules adopted under Subchapter B, Chapter 392, Health and Safety

1 Code, as added by this article, apply only to the sale or offer of
2 sale of a new product to which that chapter applies that occurs on
3 or after January 1, 2011.

4 (b) Notwithstanding Subsection (a) of this section, a new
5 residential pool pump that does not meet the efficiency standards
6 contained in Section 392.059, Health and Safety Code, as added by
7 this article, may be sold in this state through December 31, 2011.

8 ARTICLE 10. GREENHOUSE GAS REGISTRY

9 SECTION 10.01. Chapter 382, Health and Safety Code, is
10 amended by adding Subchapter J to read as follows:

11 SUBCHAPTER J. GREENHOUSE GAS REGISTRY

12 Sec. 382.501. GREENHOUSE GAS REGISTRY. (a) The commission
13 along with the Railroad Commission of Texas and the Public Utility
14 Commission of Texas shall jointly participate in the federal
15 government process for developing federal greenhouse gas reporting
16 requirements and the federal greenhouse gas registry requirements.

17 (b) The commission shall adopt rules to comply with any
18 federal greenhouse gas reporting requirements adopted by the
19 federal government for private and public facilities eligible to
20 participate in the federal greenhouse gas registry. In adopting
21 the rules, the commission shall adopt and incorporate by reference
22 rules implementing the federal reporting requirements and the
23 federal registry.

24 ARTICLE 11. PERMITTING

25 SECTION 11.01. Section 382.0518, Health and Safety Code, is
26 amended by adding Subsections (c-1), (c-2), (c-3), (c-4), and (c-5)
27 to read as follows:

1 (c-1) In considering the issuance of a permit for a new
2 electric generating facility expected to emit 100 tons per year or
3 more of volatile organic compounds or nitrogen oxides, the
4 commission shall consider:

5 (1) the formation of ozone due to the cumulative
6 effects of the facility's expected emissions, authorized emissions
7 from issued permits for a new major source or a major modification
8 to an existing major source, and actual authorized emissions from
9 all facilities permitted under this section, as applicable; and

10 (2) whether the emissions from the facility in regard
11 to the formation of ozone will negatively affect compliance with
12 the state's air quality state implementation plan.

13 (c-2) The commission shall conduct an analysis when a
14 facility described by Subsection (c-1) is located:

15 (1) in an unclassifiable or designated attainment area
16 for ozone; and

17 (2) within a distance of a designated ozone
18 nonattainment county as specified by commission rule.

19 (c-3) The commission shall specify by rule an ozone de
20 minimis impact level. The de minimis impact level shall be used to
21 determine the effect of a facility described by Subsection (c-1).

22 (c-4) A facility's emissions that contribute at or below the
23 de minimis impact level will be presumed to have no significant
24 impact and will not be considered to cause or contribute to a
25 violation of the ozone national ambient air quality standard.

26 (c-5) A facility's emissions that contribute above the de
27 minimis impact level may be required to reduce the impact of its

1 emissions to at or below the de minimis impact level by obtaining
2 sufficient emissions reductions. The commission may consider
3 federally enforceable reductions of projected emissions from the
4 facility or actual emissions from other sources within the area
5 described by Subsection (c-2) to meet this requirement.

6 SECTION 11.02. Subsections (a) and (d), Section 382.055,
7 Health and Safety Code, are amended to read as follows:

8 (a) A preconstruction permit issued or renewed by the
9 commission is subject to review to determine whether the authority
10 to operate should be renewed according to the following schedule:

11 (1) a preconstruction permit issued before December 1,
12 1991, is subject to review not later than 10 [~~15~~] years after the
13 date of the last renewal before January 1, 2010 [~~issuance~~];

14 (2) a preconstruction permit issued on or after
15 December 1, 1991, is subject to review:

16 (A) every 10 years after the date of issuance; or

17 (B) on the filing of an application for an
18 amendment to the permit, if:

19 (i) the applicant is subject to Section
20 382.056;

21 (ii) the application is filed with the
22 commission not more than three years before the date the permit is
23 scheduled to expire; and

24 (iii) the applicant does not object to
25 having the permit subjected to review at that time; and

26 (3) for cause, a preconstruction permit issued on or
27 after December 1, 1991, for a facility at a nonfederal source may

1 contain a provision requiring the permit to be renewed at a period
2 of between five and 10 years.

3 (d) In determining whether and under which conditions a
4 preconstruction permit should be renewed, the commission shall
5 consider, at a minimum:

6 (1) the performance of the owner or operator of the
7 facility according to the method developed by the commission under
8 Section 5.754, Water Code; ~~and~~

9 (2) the condition and effectiveness of existing
10 emission control equipment and practices;

11 (3) whether construction of the facility has been
12 completed;

13 (4) whether the facility has been commercially
14 operated; and

15 (5) whether the facility has ceased operation for the
16 preceding five years or more.

17 SECTION 11.03. (a) Not later than September 1, 2011, the
18 Texas Commission on Environmental Quality shall adopt rules
19 governing the analysis to be conducted under Subsection (c-2),
20 Section 382.0518, Health and Safety Code, as added by this Act.

21 (b) Not later than December 1, 2010, the Texas Commission on
22 Environmental Quality shall submit an interim progress report to
23 the legislature regarding the analysis to be conducted under
24 Subsection (c-2), Section 382.0518, Health and Safety Code, as
25 added by this Act.

26 ARTICLE 12. NO APPROPRIATION; EFFECTIVE DATE

27 SECTION 12.01. This Act does not make an appropriation. A

1 provision in this Act that creates a new governmental program,
2 creates a new entitlement, or imposes a new duty on a governmental
3 entity is not mandatory during a fiscal period for which the
4 legislature has not made a specific appropriation to implement the
5 provision.

6 SECTION 12.02. This Act takes effect September 1, 2009.