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S.B. No. 1425

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.

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

SECTION 1. 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

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

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

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

23 SECTION 2. Subtitle C, Title 5, Health and Safety Code, is
24 amended by adding Chapter 391 to read as follows:

25 CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

26 Sec. 391.001. DEFINITIONS. In this chapter:

27 (1) "Alternative fuel" means a fuel other than

1 gasoline, diesel or biodiesel fuel, including electricity,
2 compressed natural gas, liquified natural gas, hydrogen, propane,
3 or a mixture of fuels containing at least 85 percent methanol by
4 volume.

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

7 (3) "Golf cart" has the meaning assigned by Section
8 502.001, Transportation Code.

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

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

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

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

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

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

25 (B) is a slow-moving vehicle, as defined by
26 Section 547.001, Transportation Code, that is able to attain a
27 speed of more than 20 miles per hour but not more than 25 miles per

1 hour in one mile on a paved, level surface;

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

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

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

7 (F) is not a golf cart.

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

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

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

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

24 (1) is certified to current federal emissions
25 standards;

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

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

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

4 (1) is a neighborhood electric vehicle;

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

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

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

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

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

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

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

27 (1) result in a reduction in emissions of nitrogen

1 oxides or other pollutants, as established by the commission, of at
2 least 25 percent, based on:

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

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

7 (2) replace a vehicle that:

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

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

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

16 (D) is in operating condition and has at least
17 two years of remaining useful life, as determined in accordance
18 with criteria established by the commission.

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

26 (d) The commission shall include and enforce the usage
27 provisions in the grant contracts. The commission shall monitor

1 compliance with the ownership and usage requirements, including
2 submission of reports on at least an annual basis, or more
3 frequently as determined by the commission.

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

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

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

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

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

1 to pay the recipient's administrative expenses.

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

4 (1) 80 percent of the incremental cost for a
5 heavy-duty diesel engine:

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

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

11 (2) 70 percent of the incremental cost for a
12 heavy-duty diesel engine certified to meet the federal emission
13 standards applicable to engines manufactured in 1990 through 1997;

14 (3) 60 percent of the incremental cost for a
15 heavy-duty diesel engine certified to meet the federal emission
16 standards applicable to engines manufactured in 1998 through 2003;

17 (4) 50 percent of the incremental cost for a
18 heavy-duty diesel engine certified to meet the federal emission
19 standards applicable to engines manufactured in 2004 and later;

20 (5) 80 percent of the incremental cost for a
21 light-duty diesel vehicle:

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

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

26 (6) 70 percent of the incremental cost for a
27 light-duty diesel vehicle certified to meet federal emission

1 standards prior to 2004; and

2 (7) 60 percent of the incremental cost for a
3 light-duty diesel vehicle certified to meet federal emission
4 standards applicable after 2003.

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

8 Sec. 391.008. EXPIRATION. This chapter expires August 31,
9 2017.

10 SECTION 3. (a) In this section:

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

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

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

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

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

26 (c) From the emissions reductions determined under
27 Subsection (b) of this section, the commission shall determine the

1 amount of emissions reductions which are fairly attributable to the
2 installation of an alternative fuel fueling facility and the
3 combustion of the alternative fuel in the vehicles fueled by the
4 alternative fuel fueling facility.

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

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

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

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

21 (f) This section expires August 31, 2011.

22 SECTION 4. The Texas Commission on Environmental Quality
23 shall adopt rules under Section 391.005, Health and Safety Code, as
24 added by this Act, as soon as practicable after the effective date
25 of this Act.

26 SECTION 5. This Act takes effect September 1, 2009.