

By: Strama

H.B. No. 2938

A BILL TO BE ENTITLED

AN ACT

relating to a grant program for certain natural gas motor vehicles.

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

SECTION 1. Section 386.252(a), Health and Safety Code, as amended by Chapters 1125 (H.B. 1796) and 1232 (S.B. 1759), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and 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:

(A) not more than four percent may be used for the clean school bus program;

(B) not more than 10 percent may be used for on-road diesel purchase or lease incentives; ~~and~~

(C) a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy;

(D) five percent shall be used for the clean fleet program;

(E) not less than 16 percent shall be used for the natural gas vehicle rebate program; and

1 (F) not more than four percent may be used to
2 provide grants for natural gas fueling stations under Section
3 393.009;

4 (2) for the new technology research and development
5 program, nine percent of the money in the fund, of which:

6 (A) up to \$200,000 is allocated for a health
7 effects study;

8 (B) \$500,000 is to be deposited in the state
9 treasury to the credit of the clean air account created under
10 Section 382.0622 to supplement funding for air quality planning
11 activities in affected counties;

12 (C) not less than 20 percent is to be allocated
13 each year to support research related to air quality as provided by
14 Section 387.010; and

15 (D) the balance is allocated each year to the
16 commission to be used to:

17 (i) implement and administer the new
18 technology research and development program for the purpose of
19 identifying, testing, and evaluating new emissions-reducing
20 technologies with potential for commercialization in this state and
21 to facilitate their certification or verification; and

22 (ii) contract with the Energy Systems
23 Laboratory at the Texas Engineering Experiment Station for \$216,000
24 annually for the development and annual computation of creditable
25 statewide emissions reductions obtained through wind and other
26 renewable energy resources for the state implementation plan; and

27 (3) two percent is allocated to the commission and 1.5

1 percent is allocated to the laboratory for administrative costs
2 incurred by the commission and the laboratory.

3 SECTION 2. Subtitle C, Title 5, Health and Safety Code, is
4 amended by adding Chapter 393 to read as follows:

5 CHAPTER 393. TEXAS NATURAL GAS VEHICLE GRANT PROGRAM

6 Sec. 393.001. DEFINITIONS. In this chapter:

7 (1) "Commission" means the Texas Commission on
8 Environmental Quality.

9 (2) "Executive director" means the executive director
10 of the Texas Commission on Environmental Quality.

11 (3) "Heavy-duty motor vehicle" means a motor vehicle
12 with:

13 (A) a gross vehicle weight rating of more than
14 10,000 pounds; and

15 (B) an engine certified to the United States
16 Environmental Protection Agency's standards for heavy-duty
17 engines.

18 (4) "Incremental cost" has the meaning assigned by
19 Section 386.001.

20 (5) "Motor vehicle" has the meaning assigned by
21 Section 386.151.

22 (6) "Natural gas vehicle" means a motor vehicle that
23 receives not less than 75 percent of its power from compressed or
24 liquefied natural gas.

25 (7) "Program" means the Texas natural gas vehicle
26 grant program established under this chapter.

27 Sec. 393.002. PROGRAM. The commission shall establish and

1 administer the Texas natural gas vehicle grant program to encourage
2 an entity that has a heavy-duty motor vehicle to repower the vehicle
3 with a natural gas engine or replace the vehicle with a natural gas
4 vehicle. Under the program, the commission shall provide grants
5 for eligible heavy-duty motor vehicles to offset the incremental
6 cost for the entity of repowering or replacing the heavy-duty motor
7 vehicle.

8 Sec. 393.003. QUALIFYING VEHICLES. (a) A vehicle is a
9 qualifying vehicle that may be considered for a grant under the
10 program if during the calendar year the entity:

11 (1) purchased or leased the vehicle as a new on-road
12 heavy-duty motor vehicle that:

13 (A) is a natural gas vehicle;

14 (B) is certified to current federal emissions
15 standards;

16 (C) replaces an on-road heavy-duty motor vehicle
17 of the same weight classification and use; and

18 (D) is powered by an engine certified to emit not
19 more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

20 (2) repowered the on-road heavy-duty motor vehicle to
21 a natural gas vehicle powered by a natural gas engine that:

22 (A) is certified to current federal emissions
23 standards; and

24 (B) is certified to emit not more than 0.2 grams
25 of nitrogen oxides per brake horsepower hour.

26 (b) A heavy-duty motor vehicle is not a qualifying vehicle
27 if the vehicle or the natural gas engine powering the vehicle:

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

4 (2) has received a similar grant or tax credit in
5 another jurisdiction if that grant or tax credit program is relied
6 on for credit in the state implementation plan.

7 Sec. 393.004. APPLICATION FOR GRANT. (a) Only an entity
8 operating in this state that operates a heavy-duty motor vehicle
9 may apply for and receive a grant under this chapter.

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

13 (c) The commission, after consulting stakeholders, shall:

14 (1) simplify the application form; and

15 (2) minimize, to the extent feasible, documentation
16 required for an application.

17 Sec. 393.005. ELIGIBILITY FOR GRANTS. (a) The commission
18 by rule shall establish criteria for prioritizing qualifying
19 vehicles eligible to receive grants under this chapter. The
20 commission shall review and revise the criteria as appropriate.

21 (b) To be eligible for a grant under the program:

22 (1) the use of the qualifying vehicle must be
23 projected to result in a reduction in emissions of nitrogen oxides
24 of at least 25 percent as compared to the heavy-duty motor vehicle
25 or engine being replaced, based on:

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

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

3 (2) the qualifying vehicle must:

4 (A) replace a heavy-duty motor vehicle that:

5 (i) is an on-road vehicle that has been
6 owned or leased and registered and operated by the applicant in
7 Texas for at least the two years immediately preceding the
8 submission of a grant application;

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

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

13 (iv) is in operating condition and has at
14 least two years of remaining useful life, as determined in
15 accordance with criteria established by the commission; or

16 (B) be a heavy-duty motor vehicle repowered with
17 a natural gas engine that:

18 (i) is installed in an on-road vehicle that
19 has been owned or leased and registered and operated by the
20 applicant in Texas for at least the two years immediately preceding
21 the submission of a grant application;

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

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

26 (iv) at the time of the vehicle's repowering
27 with a natural gas engine, the vehicle was in operating condition

1 and had at least two years of remaining useful life, as determined
2 in accordance with criteria established by the commission.

3 (c) As a condition of receiving a grant, the qualifying
4 vehicle must be continuously owned or leased and registered and
5 operated in the state by the grant recipient until the earlier of
6 the fourth anniversary of the date of reimbursement of the
7 grant-funded expenses or until the date the vehicle has been in
8 operation for 400,000 miles. Not less than 75 percent of the annual
9 use of the qualifying vehicle, either mileage or fuel use as
10 determined by the commission, must occur in the counties any part of
11 which are included in the area described by Section 393.010(a).

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

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

21 (f) A heavy-duty motor vehicle or engine replaced under this
22 program must be rendered permanently inoperable by crushing the
23 vehicle, by making a hole in the engine block and permanently
24 destroying the frame of the vehicle, or by another method approved
25 by the commission that permanently removes the vehicle from
26 operation in this state. The commission shall establish criteria
27 for ensuring the permanent destruction of the engine and vehicle.

1 The commission shall enforce the destruction requirements.

2 (g) The commission shall establish baseline emission levels
3 for emissions of nitrogen oxides for on-road heavy-duty motor
4 vehicles being replaced by using the emission certification for the
5 engine or vehicle being replaced. The commission may consider
6 deterioration of the emission performance of the engine of the
7 vehicle being replaced in establishing the baseline emission level.
8 The commission may consider and establish baseline emission rates
9 for additional pollutants of concern, as determined by the
10 commission.

11 (h) Mileage or fuel use requirements established by the
12 commission under Subsection (b)(2)(A)(ii) may differ by vehicle
13 weight categories and type of use.

14 (i) The executive director may waive the requirements of
15 Subsection (b)(2)(A)(i) on a finding of good cause, including short
16 lapses in registration or operation due to economic conditions,
17 seasonal work, or other circumstances.

18 Sec. 393.006. RESTRICTION ON USE OF GRANT. A recipient of a
19 grant under this chapter shall use the grant to pay the incremental
20 costs of the replacement for which the grant is made, which may
21 include the initial cost of the natural gas vehicle or natural gas
22 engine and the reasonable and necessary expenses incurred for the
23 labor needed to install emissions-reducing equipment. The
24 recipient may not use the grant to pay the recipient's
25 administrative expenses.

26 Sec. 393.007. AMOUNT OF GRANT. (a) The commission shall
27 develop a grant schedule that:

1 (1) assigns a standardized grant in an amount between
2 60 and 90 percent of the incremental cost of a natural gas vehicle
3 purchase, lease, or repowering; and

4 (2) is based on:

5 (A) the certified emission level of nitrogen
6 oxides, or other pollutants as determined by the commission, of the
7 engine powering the natural gas vehicle;

8 (B) the overall emissions reduction achieved by
9 the natural gas vehicle; and

10 (C) the usage of the natural gas vehicle.

11 (b) Not less than 50 percent of the total amount of grants
12 awarded under this chapter for the purchase and repowering of motor
13 vehicles must be awarded to motor vehicles with a gross vehicle
14 weight rating of at least 33,001 pounds. The minimum grant
15 requirement under this subsection does not apply if the commission
16 does not receive enough grant applications to satisfy the
17 requirement for motor vehicles described by this subsection that
18 are eligible to receive a grant under this chapter.

19 Sec. 393.008. GRANT PROCEDURES. (a) The commission shall
20 adopt procedures for:

21 (1) awarding grants under this chapter in the form of
22 rebates; and

23 (2) streamlining the grant application, contracting,
24 reimbursement, and reporting process for qualifying natural gas
25 vehicle purchases or repowers.

26 (b) Procedures adopted under this section must:

27 (1) provide for a listing compiled by the commission

1 of pre-approved natural gas vehicles powered by natural gas engines
2 certified to emit not more than 0.2 grams of nitrogen oxides per
3 brake horsepower hour;

4 (2) provide a method to calculate the reduction in
5 emissions of nitrogen oxides, volatile organic compounds, carbon
6 monoxide, particulate matter, and sulfur compounds for each
7 replacement or repowering;

8 (3) assign a standardized rebate amount for each
9 qualifying vehicle under Section 393.007;

10 (4) allow for processing rebates on an ongoing
11 first-come, first-served basis;

12 (5) provide for contracts between the commission and
13 participating dealers under Section 393.009;

14 (6) allow grant recipients to assign their grant funds
15 to participating dealers to offset the purchase or lease price;

16 (7) require grant applicants to identify natural gas
17 fueling stations that are available to fuel the qualifying vehicle
18 in the area of its use;

19 (8) provide for payment not later than the 30th day
20 after the date a grant is approved;

21 (9) provide for application submission and
22 application status checks to be made over the Internet; and

23 (10) consolidate, simplify, and reduce the
24 administrative work for applicants and the commission associated
25 with grant application, contracting, reimbursement, and reporting
26 requirements.

27 (c) The commission, or its designee, shall oversee the grant

1 process and is responsible for final approval of any grant.

2 (d) Grant recipients are responsible for meeting all grant
3 conditions, including reporting and monitoring as required by the
4 commission through the grant contract.

5 Sec. 393.009. PARTICIPATING DEALERS. (a) In this section,
6 "participating dealer" means a person who:

7 (1) sells or leases on-road heavy-duty natural gas
8 vehicles or heavy-duty natural gas engines; and

9 (2) has satisfied all requirements established by the
10 commission for participation in the program as a dealer.

11 (b) A participating dealer must agree to the terms and
12 conditions of a standardized contract developed by the commission.

13 (c) A participating dealer shall:

14 (1) provide information regarding natural gas vehicle
15 grants to fleet operators;

16 (2) assist an applicant who purchases or leases a
17 natural gas vehicle or engine from the dealer with the completion of
18 the application; and

19 (3) submit completed applications and documentation
20 to the commission on behalf of an applicant who purchases or leases
21 a natural gas vehicle or engine from the dealer.

22 (d) A participating dealer may not approve a grant.

23 (e) The commission shall:

24 (1) maintain and make available to the public online a
25 list of all qualified dealers; and

26 (2) establish requirements for participation in the
27 program by sellers of on-road heavy-duty natural gas vehicles and

1 natural gas engines.

2 Sec. 393.010. CLEAN TRANSPORTATION TRIANGLE. (a) To
3 ensure that natural gas vehicles purchased or leased or repowered
4 under the program have access to fuel, and to build the foundation
5 for a self-sustaining market for natural gas vehicles in Texas, the
6 commission shall award grants to support the development of a
7 network of natural gas vehicle fueling stations along the
8 interstate highways between Houston, San Antonio, and the
9 Dallas-Fort Worth area. In awarding the grants, the commission
10 shall provide for:

11 (1) strategically placed natural gas vehicle fueling
12 stations in and between the Houston, San Antonio, and Dallas-Fort
13 Worth areas to enable a natural gas vehicle to travel along that
14 triangular area relying solely on natural gas fuel;

15 (2) grants to be dispersed through a competitive
16 bidding process to offset a portion of the cost of installation of
17 the natural gas dispensing equipment;

18 (3) contracts that require the recipient stations to
19 meet operational, maintenance, and reporting requirements as
20 specified by the commission; and

21 (4) a listing, to be maintained by the commission and
22 made available to the public online, of all natural gas vehicle
23 fueling stations that have received grant funding, including
24 location and hours of operation.

25 (b) The commission may not award more than three station
26 grants to any entity.

27 (c) Stations funded by grants under this section must be

1 publicly accessible and located not more than three miles from an
2 interstate highway system. The commission shall give preference
3 to:

4 (1) stations providing both liquefied natural gas and
5 compressed natural gas at a single location; and

6 (2) stations located not more than one mile from an
7 interstate highway system.

8 (d) To meet the goals of this section, the commission may
9 solicit grant applications under this section for a new fueling
10 station in a specific area or location.

11 (e) Grants made under this section are not subject to the
12 requirements of Sections 393.002 through 393.008. The commission
13 shall develop an application package and review applications in
14 accordance with Sections 386.110 and 386.111.

15 (f) The commission, in consultation with the natural gas
16 industry, shall determine the most efficient use of funding for the
17 station grants under this section to maximize the availability of
18 natural gas fueling stations.

19 Sec. 393.011. ADDITIONAL INCENTIVES FOR NATURAL GAS
20 VEHICLES. The commission shall work with the Texas Department of
21 Transportation and local transportation authorities to provide
22 additional incentives for natural gas vehicles such as access to
23 high occupancy vehicle lanes and preferred parking in urban areas.

24 Sec. 393.012. ADMINISTRATION OF PROGRAM. The commission
25 may contract with one or more entities for administration of the
26 program.

27 Sec. 393.013. EXPIRATION. This chapter expires August 31,

1 2017.

2 SECTION 3. The Texas Commission on Environmental Quality
3 shall adopt rules and establish procedures under Chapter 393,
4 Health and Safety Code, as added by this Act, as soon as practicable
5 after the effective date of this Act.

6 SECTION 4. To the extent of any conflict, this Act prevails
7 over another Act of the 82nd Legislature, Regular Session, 2011,
8 relating to nonsubstantive additions to and corrections in enacted
9 codes.

10 SECTION 5. This Act takes effect September 1, 2011.