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H.B. No. 3399

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for grant programs funded through the Texas emissions reduction plan.

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

SECTION 1. Section 386.104, Health and Safety Code, is amended by adding Subsections (i), (j), (k), (l), and (m) to read as follows:

(i) If the commission determines that a heavy-duty motor vehicle or engine under this chapter must be decommissioned, the commission shall require the decommissioning to be carried out by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by the commission that permanently removes the vehicle from operation in this state. The commission shall provide a means for an applicant to propose an alternative method for complying with the requirements of this subsection. The commission shall enforce the requirements of this subsection.

(j) The executive director shall waive any eligibility requirements established under this section on a finding of good cause, which may include a waiver for short lapses in registration or operation attributable to economic conditions, seasonal work, or other circumstances.

(k) The commission shall consider an application under this chapter for the replacement of a vehicle that has been owned,

1 leased, or otherwise commercially financed by the applicant. If
2 the commission determines that a heavy-duty motor vehicle or engine
3 that is leased or otherwise commercially financed must be
4 decommissioned, the commission shall ensure that the applicant has
5 a legal right to decommission the vehicle or engine before awarding
6 a grant to the applicant.

7 (l) The commission shall consider an application for a
8 vehicle replacement or a fleet expansion for a project with an
9 activity life of five years or more, or 400,000 miles, whichever is
10 earlier.

11 (m) The commission shall provide a form that minimizes, to
12 the maximum extent possible, the amount of paperwork required.

13 SECTION 2. Section 391.002, Health and Safety Code, as
14 added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature,
15 Regular Session, 2009, is amended by amending Subsection (b) and
16 adding Subsection (c) to read as follows:

17 (b) An entity that places 20 [~~25~~] or more qualifying
18 vehicles in service for use entirely in this state during a calendar
19 year is eligible to participate in the program.

20 (c) Notwithstanding Subsection (b), an entity that submits
21 a grant application for 20 or more qualifying vehicles is eligible
22 to participate in the program even if the commission denies
23 approval for one or more of the vehicles during the application
24 process.

25 SECTION 3. Section 391.004, Health and Safety Code, as
26 added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature,
27 Regular Session, 2009, is amended by amending Subsection (a) and

1 adding Subsection (d) to read as follows:

2 (a) An entity operating in this state that operates a fleet
3 of at least 75 [~~100~~] vehicles may apply for and receive a grant
4 under the program.

5 (d) The commission shall minimize, to the maximum extent
6 possible, the amount of paperwork required for an application. An
7 applicant may be required to submit a photograph or other
8 documentation of a vehicle identification number, registration
9 information, inspection information, tire condition, or engine
10 block identification only if the photograph or documentation is
11 requested by the commission after the commission has decided to
12 award a grant to the applicant under this chapter.

13 SECTION 4. Section 391.005, Health and Safety Code, as
14 added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature,
15 Regular Session, 2009, is amended by amending Subsections (b), (c),
16 (d), and (f) and adding Subsection (i) to read as follows:

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

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

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

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

26 (2) replace a vehicle that:

27 (A) is an on-road vehicle that has been owned,

1 leased, or otherwise commercially financed and registered~~[7]~~ and
2 operated by the applicant in Texas for at least the two years
3 immediately preceding the submission of a grant application;

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

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

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

11 (c) As a condition of receiving a grant, the qualifying
12 vehicle must be continuously owned, registered, and operated in the
13 state by the grant recipient until the earlier of the fifth
14 anniversary of [~~for at least five years from~~] the date of
15 reimbursement of the grant-funded expenses or until the date the
16 vehicle has been in operation for 400,000 miles after the date of
17 reimbursement. Not less than 75 percent of the annual use of the
18 qualifying vehicle, either mileage or fuel use as determined by the
19 commission, must occur in the state.

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

25 (f) A vehicle or engine replaced under this program must be
26 rendered permanently inoperable by crushing the vehicle, by [~~or~~]
27 making a hole in the engine block and permanently destroying the

1 frame of the vehicle, or by another method approved by the
2 commission that permanently removes the vehicle from operation in
3 this state. The commission shall provide a means for an applicant to
4 propose an alternative method of complying with the requirements of
5 this subsection. [~~The commission shall establish criteria for~~
6 ~~ensuring the permanent destruction of the engine and vehicle.~~] The
7 commission shall [~~monitor and~~] enforce the [~~destruction~~]
8 requirements of this subsection.

9 (i) The executive director shall waive the requirements of
10 Subsection (b)(2)(A) on a finding of good cause, which may include a
11 waiver for short lapses in registration or operation attributable
12 to economic conditions, seasonal work, or other circumstances.

13 SECTION 5. Sections 386.104, 391.002, 391.004, and 391.005,
14 Health and Safety Code, as amended by this Act, apply only to a
15 grant application submitted to the Texas Commission on
16 Environmental Quality on or after the effective date of this Act. A
17 grant application submitted to the Texas Commission on
18 Environmental Quality before the effective date of this Act is
19 governed by the law in effect on the date the application was
20 submitted, and the former law is continued in effect for that
21 purpose.

22 SECTION 6. This Act takes effect September 1, 2011.