

1-1 By: Legler, et al. (Senate Sponsor - Williams) H.B. No. 3399  
1-2 (In the Senate - Received from the House May 12, 2011;  
1-3 May 12, 2011, read first time and referred to Committee on Natural  
1-4 Resources; May 18, 2011, reported favorably by the following vote:  
1-5 Yeas 8, Nays 0; May 18, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the requirements for grant programs funded through the  
1-9 Texas emissions reduction plan.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 386.104, Health and Safety Code, is  
1-12 amended by adding Subsections (i), (j), (k), (l), and (m) to read as  
1-13 follows:

1-14 (i) If the commission determines that a heavy-duty motor  
1-15 vehicle or engine under this chapter must be decommissioned, the  
1-16 commission shall require the decommissioning to be carried out by  
1-17 crushing the vehicle, by making a hole in the engine block and  
1-18 permanently destroying the frame of the vehicle, or by another  
1-19 method approved by the commission that permanently removes the  
1-20 vehicle from operation in this state. The commission shall provide  
1-21 a means for an applicant to propose an alternative method for  
1-22 complying with the requirements of this subsection. The commission  
1-23 shall enforce the requirements of this subsection.

1-24 (j) The executive director shall waive any eligibility  
1-25 requirements established under this section on a finding of good  
1-26 cause, which may include a waiver for short lapses in registration  
1-27 or operation attributable to economic conditions, seasonal work, or  
1-28 other circumstances.

1-29 (k) The commission shall consider an application under this  
1-30 chapter for the replacement of a vehicle that has been owned,  
1-31 leased, or otherwise commercially financed by the applicant. If  
1-32 the commission determines that a heavy-duty motor vehicle or engine  
1-33 that is leased or otherwise commercially financed must be  
1-34 decommissioned, the commission shall ensure that the applicant has  
1-35 a legal right to decommission the vehicle or engine before awarding  
1-36 a grant to the applicant.

1-37 (l) The commission shall consider an application for a  
1-38 vehicle replacement or a fleet expansion for a project with an  
1-39 activity life of five years or more, or 400,000 miles, whichever is  
1-40 earlier.

1-41 (m) The commission shall provide a form that minimizes, to  
1-42 the maximum extent possible, the amount of paperwork required.

1-43 SECTION 2. Section 391.002, Health and Safety Code, as  
1-44 added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature,  
1-45 Regular Session, 2009, is amended by amending Subsection (b) and  
1-46 adding Subsection (c) to read as follows:

1-47 (b) An entity that places 20 [~~25~~] or more qualifying  
1-48 vehicles in service for use entirely in this state during a calendar  
1-49 year is eligible to participate in the program.

1-50 (c) Notwithstanding Subsection (b), an entity that submits  
1-51 a grant application for 20 or more qualifying vehicles is eligible  
1-52 to participate in the program even if the commission denies  
1-53 approval for one or more of the vehicles during the application  
1-54 process.

1-55 SECTION 3. Section 391.004, Health and Safety Code, as  
1-56 added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature,  
1-57 Regular Session, 2009, is amended by amending Subsection (a) and  
1-58 adding Subsection (d) to read as follows:

1-59 (a) An entity operating in this state that operates a fleet  
1-60 of at least 75 [~~100~~] vehicles may apply for and receive a grant  
1-61 under the program.

1-62 (d) The commission shall minimize, to the maximum extent  
1-63 possible, the amount of paperwork required for an application. An  
1-64 applicant may be required to submit a photograph or other  
1-65 documentation of a vehicle identification number, registration  
1-66 information, inspection information, tire condition, or engine  
1-67 block identification only if the photograph or documentation is

2-1 requested by the commission after the commission has decided to  
2-2 award a grant to the applicant under this chapter.

2-3 SECTION 4. Section 391.005, Health and Safety Code, as  
2-4 added by Chapter 1232 (S.B. 1759), Acts of the 81st Legislature,  
2-5 Regular Session, 2009, is amended by amending Subsections (b), (c),  
2-6 (d), and (f) and adding Subsection (i) to read as follows:

2-7 (b) To be eligible for a grant under the program, a project  
2-8 must:

2-9 (1) result in a reduction in emissions of nitrogen  
2-10 oxides or other pollutants, as established by the commission, of at  
2-11 least 25 percent, based on:

2-12 (A) the baseline emission level set by the  
2-13 commission under Subsection (g); and

2-14 (B) the certified emission rate of the new  
2-15 vehicle; and

2-16 (2) replace a vehicle that:

2-17 (A) is an on-road vehicle that has been owned,  
2-18 leased, or otherwise commercially financed and registered[7] and  
2-19 operated by the applicant in Texas for at least the two years  
2-20 immediately preceding the submission of a grant application;

2-21 (B) satisfies any minimum average annual mileage  
2-22 or fuel usage requirements established by the commission;

2-23 (C) satisfies any minimum percentage of annual  
2-24 usage requirements established by the commission; and

2-25 (D) is in operating condition and has at least  
2-26 two years of remaining useful life, as determined in accordance  
2-27 with criteria established by the commission.

2-28 (c) As a condition of receiving a grant, the qualifying  
2-29 vehicle must be continuously owned, registered, and operated in the  
2-30 state by the grant recipient until the earlier of the fifth  
2-31 anniversary of [~~for at least five years from~~] the date of  
2-32 reimbursement of the grant-funded expenses or until the date the  
2-33 vehicle has been in operation for 400,000 miles after the date of  
2-34 reimbursement. Not less than 75 percent of the annual use of the  
2-35 qualifying vehicle, either mileage or fuel use as determined by the  
2-36 commission, must occur in the state.

2-37 (d) The commission shall include and enforce the usage  
2-38 provisions in the grant contracts. The commission shall monitor  
2-39 compliance with the contract [~~ownership and usage~~] requirements,  
2-40 including submission of reports on at least an annual basis, or more  
2-41 frequently as determined by the commission.

2-42 (f) A vehicle or engine replaced under this program must be  
2-43 rendered permanently inoperable by crushing the vehicle, by [~~or~~]  
2-44 making a hole in the engine block and permanently destroying the  
2-45 frame of the vehicle, or by another method approved by the  
2-46 commission that permanently removes the vehicle from operation in  
2-47 this state. The commission shall provide a means for an applicant  
2-48 to propose an alternative method of complying with the requirements  
2-49 of this subsection. [The commission shall establish criteria for  
2-50 ensuring the permanent destruction of the engine and vehicle.] The  
2-51 commission shall [~~monitor and~~] enforce the [~~destruction~~]  
2-52 requirements of this subsection.

2-53 (i) The executive director shall waive the requirements of  
2-54 Subsection (b)(2)(A) on a finding of good cause, which may include a  
2-55 waiver for short lapses in registration or operation attributable  
2-56 to economic conditions, seasonal work, or other circumstances.

2-57 SECTION 5. Sections 386.104, 391.002, 391.004, and 391.005,  
2-58 Health and Safety Code, as amended by this Act, apply only to a  
2-59 grant application submitted to the Texas Commission on  
2-60 Environmental Quality on or after the effective date of this Act. A  
2-61 grant application submitted to the Texas Commission on  
2-62 Environmental Quality before the effective date of this Act is  
2-63 governed by the law in effect on the date the application was  
2-64 submitted, and the former law is continued in effect for that  
2-65 purpose.

2-66 SECTION 6. This Act takes effect September 1, 2011.

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