

By: Williams, West
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S.B. No. 20

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. Subsection (a), Section 386.252, 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
3 393.010;

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) "Advisory board" means the Texas Emissions
8 Reduction Plan Advisory Board.

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

11 (3) "Executive director" means the executive director
12 of the Texas Commission on Environmental Quality.

13 (4) "Heavy-duty motor vehicle" means a motor vehicle
14 with:

15 (A) a gross vehicle weight rating of more than
16 8,500 pounds; and

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

20 (5) "Incremental cost" has the meaning assigned by
21 Section 386.001.

22 (6) "Motor vehicle" has the meaning assigned by
23 Section 386.151.

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

27 (8) "Program" means the Texas natural gas vehicle

grant program established under this chapter.

Sec. 393.002. PROGRAM. The commission shall establish and administer the Texas natural gas vehicle grant program to encourage an entity that has a heavy-duty motor vehicle to repower the vehicle with a natural gas engine or replace the vehicle with a natural gas vehicle. Under the program, the commission shall provide grants for eligible heavy-duty motor vehicles to offset the incremental cost for the entity of repowering or replacing the heavy-duty motor vehicle.

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

(1) purchased, leased, or otherwise commercially financed the vehicle as a new on-road heavy-duty motor vehicle that:

(A) is a natural gas vehicle;

(B) is certified to current federal emissions standards;

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

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

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

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

(B) is certified to emit not more than 0.2 grams

1 of nitrogen oxides per brake horsepower hour.

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

4 (1) has been awarded a grant under this chapter for a
5 previous reporting period or by another entity; or

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

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

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

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

16 (1) simplify the application form; and

17 (2) minimize, to the maximum extent possible,
18 documentation required for an application.

19 Sec. 393.005. ELIGIBILITY FOR GRANTS. (a) The commission
20 by rule shall establish criteria for prioritizing qualifying
21 vehicles eligible to receive grants under this chapter. The
22 commission shall review and revise the criteria as appropriate
23 after consultation with the advisory board.

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

25 (1) the use of the qualifying vehicle must be
26 projected to result in a reduction in emissions of nitrogen oxides
27 of at least 25 percent as compared to the heavy-duty motor vehicle

1 or engine being replaced, based on:

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

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

6 (2) the qualifying vehicle must:

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

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

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

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

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

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

21 (i) is installed in an on-road vehicle that
22 has been owned, leased, or otherwise commercially financed and
23 registered and operated by the applicant in Texas for at least the
24 two years immediately preceding the submission of a grant
25 application;

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

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

3 (iv) is installed in an on-road vehicle
4 that, at the time of the vehicle's repowering, was in operating
5 condition and had at least two years of remaining useful life, as
6 determined in accordance with criteria established by the
7 commission.

8 (c) As a condition of receiving a grant, the qualifying
9 vehicle must be continuously owned, leased, or otherwise
10 commercially financed and registered and operated in the state by
11 the grant recipient until the earlier of the fourth anniversary of
12 the date of reimbursement of the grant-funded expenses or until the
13 date the vehicle has been in operation for 400,000 miles after the
14 date of reimbursement. Not less than 75 percent of the annual use
15 of the qualifying vehicle, either mileage or fuel use as determined
16 by the commission, must occur in:

17 (1) the counties any part of which are included in the
18 area described by Section 393.010(a); or

19 (2) counties designated as nonattainment areas within
20 the meaning of Section 107(d) of the federal Clean Air Act (42
21 U.S.C. Section 7407)).

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

27 (e) The commission by contract may require the return of all

1 or a portion of grant funds for a grant recipient's noncompliance
2 with the usage and percentage of use requirements under this
3 section.

4 (f) A heavy-duty motor vehicle replaced under this program
5 must be rendered permanently inoperable by crushing the vehicle, by
6 making a hole in the engine block and permanently destroying the
7 frame of the vehicle, or by another method approved by the
8 commission that permanently removes the vehicle from operation in
9 this state. The commission shall establish criteria for ensuring
10 the permanent destruction of the engine or vehicle. The commission
11 shall enforce the destruction requirements.

12 (g) The commission shall establish baseline emission levels
13 for emissions of nitrogen oxides for on-road heavy-duty motor
14 vehicles being replaced by using the emission certification for the
15 engine or vehicle being replaced. The commission may consider
16 deterioration of the emission performance of the engine of the
17 vehicle being replaced in establishing the baseline emission level.
18 The commission may consider and establish baseline emission rates
19 for additional pollutants of concern, as determined by the
20 commission after consultation with the advisory board.

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

24 (i) The executive director shall waive the requirements of
25 Subsection (b)(2)(A)(i) on a finding of good cause, which may
26 include short lapses in registration or operation due to economic
27 conditions, seasonal work, or other circumstances.

1 Sec. 393.006. RESTRICTION ON USE OF GRANT. A recipient of a
2 grant under this chapter shall use the grant to pay the incremental
3 costs of the replacement for which the grant is made, which may
4 include the initial cost of the natural gas vehicle or natural gas
5 engine and the reasonable and necessary expenses incurred for the
6 labor needed to install emissions-reducing equipment. The
7 recipient may not use the grant to pay the recipient's
8 administrative expenses.

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

11 (1) assigns a standardized grant in an amount between
12 60 and 90 percent of the incremental cost of a natural gas vehicle
13 purchase, lease, other commercial finance, or repowering; and

14 (2) is based on:

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

18 (B) the overall emissions reduction achieved by
19 the natural gas vehicle; and

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

21 (b) Not less than 60 percent of the total amount of grants
22 awarded under this chapter for the purchase and repowering of motor
23 vehicles must be awarded to motor vehicles with a gross vehicle
24 weight rating of at least 33,001 pounds. The minimum grant
25 requirement under this subsection does not apply if the commission
26 does not receive enough grant applications to satisfy the
27 requirement for motor vehicles described by this subsection that

1 are eligible to receive a grant under this chapter.

2 Sec. 393.008. GRANT PROCEDURES. (a) The commission shall
3 adopt procedures for:

4 (1) awarding grants under this chapter in the form of
5 rebates; and

6 (2) streamlining the grant application, contracting,
7 reimbursement, and reporting process for qualifying natural gas
8 vehicle purchases or repowers.

9 (b) Procedures adopted under this section must:

10 (1) provide for a listing compiled by the commission
11 of pre-approved natural gas vehicles powered by natural gas engines
12 certified to emit not more than 0.2 grams of nitrogen oxides per
13 brake horsepower hour;

14 (2) if a federal standard for the calculation of
15 emissions reductions exists, provide a method to calculate the
16 reduction in emissions of nitrogen oxides, volatile organic
17 compounds, carbon monoxide, particulate matter, and sulfur
18 compounds for each replacement or repowering;

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

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

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

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

27 (7) require grant applicants to identify natural gas

fueling stations that are available to fuel the qualifying vehicle in the area of its use;

(8) provide for payment not later than the 30th day after the date the request for reimbursement for an approved grant is received;

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

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

(c) The commission, or its designee, shall oversee the grant process and is responsible for final approval of any grant.

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

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

(1) sells, leases, or otherwise commercially finances on-road heavy-duty natural gas vehicles or heavy-duty natural gas engines; and

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

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

(c) A participating dealer shall:

(1) provide information regarding natural gas vehicle

1 grants to fleet operators;

2 (2) assist an applicant who purchases, leases, or
3 otherwise commercially finances a natural gas vehicle or engine
4 from the dealer with the completion of the application; and

5 (3) submit completed applications and documentation
6 to the commission on behalf of an applicant who purchases, leases,
7 or otherwise commercially finances a natural gas vehicle or engine
8 from the dealer.

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

10 (e) The commission shall:

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

13 (2) establish requirements for participation in the
14 program by sellers of on-road heavy-duty natural gas vehicles and
15 natural gas engines.

16 Sec. 393.010. CLEAN TRANSPORTATION TRIANGLE. (a) To
17 ensure that natural gas vehicles purchased, leased, or otherwise
18 commercially financed or repowered under the program have access to
19 fuel, and to build the foundation for a self-sustaining market for
20 natural gas vehicles in Texas, the commission shall award grants to
21 support the development of a network of natural gas vehicle fueling
22 stations along the interstate highways connecting Houston, San
23 Antonio, Dallas, and Fort Worth. In awarding the grants, the
24 commission shall provide for:

25 (1) strategically placed natural gas vehicle fueling
26 stations in and between the Houston, San Antonio, and Dallas-Fort
27 Worth areas to enable a natural gas vehicle to travel along that

1 triangular area relying solely on natural gas fuel;

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

5 (3) contracts that require the recipient stations to
6 meet operational, maintenance, and reporting requirements as
7 specified by the commission; and

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

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

14 (c) Stations funded by grants under this section must be
15 publicly accessible and located not more than three miles from an
16 interstate highway system. The commission shall give preference
17 to:

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

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

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

25 (e) Grants made under this section are not subject to the
26 requirements of Sections 393.002 through 393.008. The commission
27 shall develop an application package and review applications in

1 accordance with Sections 386.110 and 386.111.

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

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

11 Sec. 393.012. ADMINISTRATION OF PROGRAM. The commission
12 may contract with one or more entities for administration of the
13 program.

14 Sec. 393.013. EXPIRATION. This chapter expires August 31,
15 2017.

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

20 SECTION 4. To the extent of any conflict, this Act prevails
21 over another Act of the 82nd Legislature, Regular Session, 2011,
22 relating to nonsubstantive additions to and corrections in enacted
23 codes.

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