

By: Pickett

H.B. No. 3479

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan and other related programs and measures to reduce emissions.

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

SECTION 1. Section 386.001(3), Health and Safety Code, is amended to read as follows:

(3) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

SECTION 2. Section 386.002, Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires on the last day of the state fiscal biennium containing the date marking five years from the United States Environmental Protection Agency publication of certification in the Federal Register that, with respect to each national ambient air quality standard for ozone under 40 C.F.R. Section 81.344, the United States Environmental Protection Agency has, for each designated area in Texas under that section:

(1) designated the area as attainment or unclassifiable; or

(2) approved a redesignation substitute making a finding of attainment for the area [August 31, 2019].

SECTION 3. Section 386.051(b), Health and Safety Code, is amended to read as follows:

1 (b) Under the plan, the commission [~~and the comptroller~~]
2 shall provide grants or other funding for:

3 (1) the diesel emissions reduction incentive program
4 established under Subchapter C, including for infrastructure
5 projects established under that subchapter;

6 (2) the seaport and rail yard areas emissions
7 reduction program established under Subchapter D-1 [~~the motor~~
8 ~~vehicle purchase or lease incentive program established under~~
9 ~~Subchapter D~~];

10 (3) the new technology implementation grant program
11 established under Chapter 391 [~~the air quality research support~~
12 ~~program established under Chapter 387~~];

13 (4) the clean fleet program established under Chapter
14 392 [~~the clean school bus program established under Chapter 390~~];

15 (5) the natural gas vehicle grant program established
16 under Chapter 394 [~~the new technology implementation grant program~~
17 ~~established under Chapter 391~~];

18 (6) a contract with the Energy Systems Laboratory at
19 the Texas A&M Engineering Experiment Station for computation of
20 creditable statewide emissions reductions as provided by Section
21 386.252(a) [~~the regional air monitoring program established under~~
22 ~~Section 386.252(a)~~];

23 (7) other programs the commission may develop that
24 lead to reduced emissions of nitrogen oxides, particulate matter,
25 or volatile organic compounds in a nonattainment area or affected
26 county [~~a health effects study as provided by Section 386.252(a)~~];

27 and

1 (8) other programs the commission may develop that
2 support congestion mitigation to reduce mobile source ozone
3 precursor emissions [~~air quality planning activities as provided by~~
4 ~~Section 386.252(a)~~];

5 ~~(9) a contract with the Energy Systems Laboratory at~~
6 ~~the Texas A&M Engineering Experiment Station for computation of~~
7 ~~creditable statewide emissions reductions as provided by Section~~
8 ~~386.252(a)(14)~~;

9 ~~(10) the clean fleet program established under Chapter~~
10 ~~392~~;

11 ~~(11) the alternative fueling facilities program~~
12 ~~established under Chapter 393~~;

13 ~~(12) the natural gas vehicle grant program and clean~~
14 ~~transportation triangle program established under Chapter 394~~;

15 ~~(13) other programs the commission may develop that~~
16 ~~lead to reduced emissions of nitrogen oxides, particulate matter,~~
17 ~~or volatile organic compounds in a nonattainment area or affected~~
18 ~~county~~;

19 ~~(14) other programs the commission may develop that~~
20 ~~support congestion mitigation to reduce mobile source ozone~~
21 ~~precursor emissions~~; and

22 ~~(15) the drayage truck incentive program established~~
23 ~~under Subchapter D-1~~].

24 SECTION 4. Sections 386.0515(a) and (c), Health and Safety
25 Code, are amended to read as follows:

26 (a) In this section:

27 (1) "Agricultural [~~,"~~ "agricultural] product

1 transportation" means the transportation of a raw agricultural
2 product from the place of production using a heavy-duty truck to:

- 3 (A) [~~(1)~~] a nonattainment area;
- 4 (B) [~~(2)~~] an affected county;
- 5 (C) [~~(3)~~] a destination inside the clean
6 transportation zone [~~triangle~~]; or
- 7 (D) [~~(4)~~] a county adjacent to a county described
8 by Paragraph (B) [~~Subdivision (2)~~] or that contains an area
9 described by Paragraph (A) or (C) [~~Subdivision (1) or (3)~~].

10 (2) "Clean transportation zone" has the meaning
11 assigned by Section 394.001.

12 (c) The determining factor for eligibility for
13 participation in a program established under Chapter 392 or
14 [~~Chapter~~] 394 [~~, as added by Chapter 892 (Senate Bill No. 385), Acts~~
15 ~~of the 82nd Legislature, Regular Session, 2011,~~] for a project
16 relating to agricultural product transportation is the overall
17 accumulative net reduction in emissions of oxides of nitrogen in a
18 nonattainment area, an affected county, or the clean transportation
19 zone [~~triangle~~].

20 SECTION 5. Section 386.104(j), Health and Safety Code, is
21 amended to read as follows:

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

27 SECTION 6. Section 386.116(a), Health and Safety Code, is

1 amended to read as follows:

2 Sec. 386.116. SMALL BUSINESS INCENTIVES. (a) In this
3 section, "small business" means a business owned by a person who:

4 (1) owns and operates not more than two vehicles, one
5 of which is:

6 (A) an on-road diesel [~~with a pre-1994 engine~~
7 ~~model~~]; or

8 (B) a non-road diesel [~~with an engine with~~
9 ~~uncontrolled emissions~~]; and

10 (2) has owned the vehicle described by Subdivision
11 (1)(A) or (B) for more than two years [~~one year~~].

12 SECTION 7. Subchapter D-1, Chapter 386, Health and Safety
13 Code, is retitled as follows:

14 SUBCHAPTER D-1. SEAPORT AND RAIL YARD AREAS EMISSIONS REDUCTION
15 PROGRAM [~~DRAYAGE TRUCK INCENTIVE PROGRAM~~]

16 SECTION 8. Section 386.181(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) In this subchapter[,]:

19 (1) "cargo handling equipment" means any heavy-duty
20 non-road, self-propelled vehicle or land based equipment used at a
21 seaport or rail yard to lift or move cargo, such as containerized,
22 bulk, or break-bulk goods; and

23 (2) "drayage truck" means a heavy-duty on-road or
24 non-road vehicle used for drayage activities and that operates or
25 transgresses through a seaport or rail yard for the purpose of
26 loading, unloading, or transporting cargo, including transporting
27 empty containers and chassis [~~truck that transports a load to or~~

1 ~~from a seaport or rail yard].~~

2 SECTION 9. Section 386.182, Health and Safety Code, is
3 amended to amend Subsections (a) and (b) to read as follows:

4 (a) The commission shall develop a purchase incentive
5 program to encourage owners to replace older drayage trucks and
6 cargo handling equipment [~~with pre-2007 model year engines~~] with
7 newer drayage trucks and cargo handling equipment and shall adopt
8 guidelines necessary to implement the program.

9 (b) The commission by rule and guideline shall establish
10 criteria for the models of drayage trucks and cargo handling
11 equipment that are eligible for inclusion in an incentive program
12 under this subchapter. [~~The guidelines must provide that a drayage~~
13 ~~truck owner is not eligible for an incentive payment under this~~
14 ~~subchapter unless the truck being replaced contains a pre-2007~~
15 ~~model year engine and the replacement truck's engine is from model~~
16 ~~year 2010 or later as determined by the commission and that the~~
17 ~~truck operates at a seaport or rail yard.]~~

18 SECTION 10. Section 386.183, Health and Safety Code, is
19 amended to amend the section title and subsections (a), (b), (c),
20 (d), and (e), and to add new subsections (a-1) and (a-2) as follows:

21 Sec. 386.183. DRAYAGE TRUCK AND CARGO HANDLING EQUIPMENT
22 PURCHASE INCENTIVE. (a) To be eligible for an incentive under this
23 subchapter, a person must:

24 (1) purchase a replacement drayage truck or cargo
25 handling equipment that under the guidelines adopted by the
26 commission under Section 386.182 is eligible for inclusion in the
27 program for an incentive under this subchapter; and

1 (2) agree to:

2 (A) register the drayage truck in this state, if
3 the truck is an on-road vehicle;

4 (B) operate the drayage truck or cargo handling
5 equipment in and within a maximum distance established by the
6 commission of a seaport or rail yard in a nonattainment area of this
7 state for not less than 50 percent of the vehicle's annual mileage
8 or hours of operation, as determined by the commission; and

9 (C) permanently remove the drayage truck or cargo
10 handling equipment [~~a pre-2007 drayage truck containing a pre-2007~~
11 ~~engine~~] replaced under the program [~~owned by the person~~] from
12 operation in a nonattainment area of this state by destroying the
13 engine and scrapping the truck or equipment after the purchase of
14 the replacement [~~new~~] truck or equipment in accordance with
15 guidelines established by the commission.

16 (a-1) To be eligible for replacement under this program a
17 drayage truck or cargo handling equipment must contain an engine of
18 a model year or certified to a federal emissions standard
19 established by the commission sufficient to ensure that the project
20 will achieve at least a 25 percent reduction in nitrogen oxides
21 emissions.

22 (a-2) To be eligible for purchase under this program a
23 drayage truck or cargo handling equipment must be powered by an
24 electric motor or contain an engine certified to the current
25 federal emission standards applicable to that type of engine, as
26 determined by the commission.

27 (b) To receive money under an incentive program provided by

1 this subchapter, the purchaser of a drayage truck or cargo handling
2 equipment eligible for inclusion in the program must apply for the
3 incentive in the manner provided by law, rule, or guideline of the
4 commission.

5 (c) Not more than one incentive may be provided for each
6 drayage truck or cargo handling equipment purchased.

7 (d) An incentive provided under this subchapter may be used
8 to fund not more than 80 percent of the purchase price of the
9 drayage truck or cargo handling equipment.

10 (e) The commission shall establish procedures to verify
11 that a person who receives an incentive:

12 (1) has operated in a seaport or rail yard and owned or
13 leased the drayage truck or cargo handling equipment to be replaced
14 for at least two years prior to receiving the grant; and

15 (2) permanently destroys the engine and scraps the
16 drayage truck or cargo handling equipment replaced under the
17 program [~~that contained the pre-2007 engine owned or leased by the~~
18 ~~person,~~] in accordance with guidelines established by the
19 commission, after the purchase of the replacement [~~new~~] truck or
20 equipment.

21 (f) The commission may modify this program to improve its
22 effectiveness or further the goals of Subchapter B.

23 SECTION 11. Section 386.251(c), Health and Safety Code, is
24 amended to read as follows:

25 (c) The fund consists of:

26 (1) the amount of money deposited to the credit of the
27 fund under:

- 1 (A) Section 386.056;
2 (B) Sections 151.0515 and 152.0215, Tax Code; and
3 (C) Sections [~~501.138~~,] 502.358[~~7~~] and 548.5055,
4 Transportation Code; and

5 (2) grant money recaptured under Section 386.111(d)
6 and Chapter 391.

7 SECTION 12. Section 386.252, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 386.252. USE OF FUND. (a) Money in the fund may be
10 used only to implement and administer programs established under
11 the plan. Subject to the reallocation of funds by the commission
12 under Subsection (f), money [~~Money~~] appropriated to the commission
13 to be used for the programs under Section 386.051(b) shall be
14 allocated as follows:

15 (1) five percent may be used for the clean fleet
16 program under Chapter 392 [~~not more than four percent may be used~~
17 ~~for the clean school bus program under Chapter 390~~];

18 (2) 10 percent may be used for the Texas natural gas
19 vehicle grant program under Chapter 394 [~~not more than three~~
20 ~~percent may be used for the new technology implementation grant~~
21 ~~program under Chapter 391, from which at least \$1 million will be~~
22 ~~set aside for electricity storage projects related to renewable~~
23 ~~energy~~];

24 (3) two percent may be used for the seaport and rail
25 yard areas emissions reduction program established under
26 Subchapter D-1 [~~five percent shall be used for the clean fleet~~
27 ~~program under Chapter 392~~];

1 (4) at least \$4 million and up to four percent to a
2 maximum of \$7 million, whichever is greater, may be used by the
3 commission for administrative costs and costs for conducting
4 outreach and education activities to promote participation in the
5 programs funded under this section [~~not more than \$3 million may be~~
6 ~~used by the commission to fund a regional air monitoring program in~~
7 ~~commission Regions 3 and 4 to be implemented under the commission's~~
8 ~~oversight, including direction regarding the type, number,~~
9 ~~location, and operation of, and data validation practices for,~~
10 ~~monitors funded by the program through a regional nonprofit entity~~
11 ~~located in North Texas having representation from counties,~~
12 ~~municipalities, higher education institutions, and private sector~~
13 ~~interests across the area];~~

14 (5) not more than \$216,000 may be used by the
15 commission to contract with the Energy Systems Laboratory at the
16 Texas A&M Engineering Experiment Station annually for the
17 development and annual computation of creditable statewide
18 emissions reductions obtained through wind and other renewable
19 energy resources for the state implementation plan [~~not less than~~
20 ~~16 percent shall be used for the Texas natural gas vehicle grant~~
21 ~~program under Chapter 394]; and~~

22 (6) the balance may be used by the commission for the
23 diesel emissions reduction incentive program under Subchapter C as
24 determined by the commission [~~not more than five percent may be used~~
25 ~~{to provide grants for natural gas fueling stations under the clean~~
26 ~~transportation triangle program under Section 394.010,~~

27 (7) ~~not more than five percent may be used for the~~

1 ~~Texas alternative fueling facilities program under Chapter 393,~~
2 ~~(8) a specified amount may be used each year to support~~
3 ~~research related to air quality as provided by Chapter 387,~~
4 ~~(9) not more than \$200,000 may be used for a health~~
5 ~~effects study[;~~
6 ~~(10) \$500,000 is to be deposited in the state treasury~~
7 ~~to the credit of the clean air account created under Section~~
8 ~~382.0622 to supplement funding for air quality planning activities~~
9 ~~in affected counties;~~
10 ~~(11) at least \$4 million and up to four percent to a~~
11 ~~maximum of \$7 million, whichever is greater, is allocated to the~~
12 ~~commission for administrative costs;~~
13 ~~(12) at least two percent and up to five percent of the~~
14 ~~fund is to be used by the commission for the drayage truck incentive~~
15 ~~program established under Subchapter D-1;~~
16 ~~(13) not more than five percent may be used for the~~
17 ~~light-duty motor vehicle purchase or lease incentive program~~
18 ~~established under Subchapter D;~~
19 ~~(14) not more than \$216,000 is allocated to the~~
20 ~~commission to contract with the Energy Systems Laboratory at the~~
21 ~~Texas A&M Engineering Experiment Station annually for the~~
22 ~~development and annual computation of creditable statewide~~
23 ~~emissions reductions obtained through wind and other renewable~~
24 ~~energy resources for the state implementation plan;~~
25 ~~(15) 1.5 percent of the money in the fund is allocated~~
26 ~~for administrative costs incurred by the laboratory; and~~
27 ~~(16) the balance is to be used by the commission for~~

1 ~~the diesel emissions reduction incentive program under Subchapter C~~
2 ~~as determined by the commission].~~

3 (b) Money in the fund may be used by the commission for
4 programs under Sections 386.051(b)(7), (b)(8), and (b-1) as may be
5 appropriated for those programs [~~The commission may allocate~~
6 ~~unexpended money designated for the clean fleet program under~~
7 ~~Chapter 392 to other programs described under Subsection (a) after~~
8 ~~the commission allocates money to recipients under the clean fleet~~
9 ~~program].~~

10 (c) If the legislature does not specify amounts or
11 percentages from the total appropriation to the commission to be
12 allocated under Subsection (a) or (b), the commission shall
13 determine the amounts of the total appropriation to be allocated
14 under each of those subsections, such that the total appropriation
15 is expended while maximizing emissions reductions [~~The commission~~
16 ~~may allocate unexpended money designated for the Texas alternative~~
17 ~~fueling facilities program under Chapter 393 to other programs~~
18 ~~described under Subsection (a) after the commission allocates money~~
19 ~~to recipients under the alternative fueling facilities program].~~

20 (d) To supplement funding for air quality planning
21 activities in affected counties, \$500,000 from the fund is to be
22 deposited annually in the state treasury to the credit of the clean
23 air account created under Section 382.0622 [~~The commission may~~
24 ~~reallocate money designated for the Texas natural gas vehicle grant~~
25 ~~program under Chapter 394 to other programs described under~~
26 ~~Subsection (a) if:~~

27 ~~(1) the commission, in consultation with the governor~~

1 ~~and the advisory board, determines that the use of the money in the~~
2 ~~fund for that program will cause the state to be in noncompliance~~
3 ~~with the state implementation plan to the extent that federal~~
4 ~~actions is likely, and~~

5 ~~(2) the commission finds that the reallocation of some~~
6 ~~or all of the funding for the program would resolve the~~
7 ~~noncompliance].~~

8 (e) Money in the fund may be allocated for administrative
9 costs incurred by the Energy Systems Laboratory at the Texas A&M
10 Engineering Experiment Station as may be appropriated by the
11 legislature [~~Under Subsection (d), the commission may not~~
12 ~~reallocate more than the minimum amount of money necessary to~~
13 ~~resolve the noncompliance].~~

14 [~~(e-1) Money allocated under Subsection (a) to a particular~~
15 ~~program may be used for another program under the plan as determined~~
16 ~~by the commission.~~

17 (f) Subject to the limitations outlined in this section and
18 any additional limitations placed on the use of the appropriated
19 funds, money allocated under this section to a particular program
20 may be used for another program under the plan as determined by the
21 commission, based on demand for grants for eligible projects under
22 particular programs after the commission solicits projects to which
23 to award grants according to the initial allocation provisions of
24 this section [~~Money in the fund may be used by the commission for~~
25 ~~programs under Sections 386.051(b)(13), (b)(14), and (b-1) as may~~
26 ~~be appropriated for those programs].~~

27 [~~(g) If the legislature does not specify amounts or~~

1 ~~percentages from the total appropriation to the commission to be~~
2 ~~allocated under Subsection (a) or (b) [(f)], the commission shall~~
3 ~~determine the amounts of the total appropriation to be allocated~~
4 ~~under each of those subsections, such that the total appropriation~~
5 ~~is expended while maximizing emissions reductions.]~~

6 SECTION 13. Section 390.006, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 390.006. EXPIRATION. This chapter expires August 31,
9 2017 [~~2019~~].

10 SECTION 14. Section 391.304, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 391.304. EXPIRATION. This chapter expires August 31,
13 2017 [~~2019~~].

14 SECTION 15. Section 392.001(1), Health and Safety Code, is
15 amended to read as follows:

16 (1) "Alternative fuel" means a fuel other than
17 gasoline or diesel fuel, including electricity, compressed natural
18 gas, liquefied [~~liquified~~] natural gas, hydrogen, propane, or a
19 mixture of fuels containing at least 85 percent methanol by volume.

20 SECTION 16. Section 392.003(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) A vehicle is a qualifying vehicle that may be considered
23 for a grant under the program if during the eligibility period
24 established by the commission [~~calendar year~~] the entity purchases
25 a new on-road vehicle that:

26 (1) is certified to the appropriate current federal
27 emissions standards as determined by the commission;

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

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

5 SECTION 17. Section 392.004(d), Health and Safety Code, is
6 amended to read as follows:

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

15 SECTION 18. Section 392.005, Health and Safety Code, is
16 amended by amending Subsections (c) and (i) and adding Subsection
17 (c-1) to read as follows:

18 (c) As a condition of receiving a grant, the qualifying
19 vehicle must be continuously owned, registered, and operated in the
20 state by the grant recipient until the earlier of the fifth
21 anniversary of the activity start date established by the
22 commission [~~the date of reimbursement of the grant-funded expenses~~]
23 or [~~until~~] the date the vehicle has been in operation for 400,000
24 miles after the activity start date established by the commission
25 [~~of reimbursement~~]. Not less than 75 percent of the annual use of
26 the qualifying vehicle, either mileage or fuel use as determined by
27 the commission, must occur in the state.

1 (c-1) For purposes of Subsection (c), the commission may
2 establish the activity start date based on the date the commission
3 accepts verification of the disposition of the vehicle being
4 replaced.

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

10 SECTION 19. Section 392.008, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 392.008. EXPIRATION. This chapter expires on the last
13 day of the state fiscal biennium containing the date marking five
14 years from the United States Environmental Protection Agency
15 publication of certification in the Federal Register that, with
16 respect to each national ambient air quality standard for ozone
17 under 40 C.F.R. Section 81.344, the United States Environmental
18 Protection Agency has, for each designated area in Texas under that
19 section:

20 (1) designated the area as attainment or
21 unclassifiable; or

22 (2) approved a redesignation substitute making a
23 finding of attainment for the area [~~August 31, 2017~~].

24 SECTION 20. Section 393.007, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 393.007. EXPIRATION. This chapter expires August 31,
27 2017 [~~2018~~].

1 SECTION 21. Section 394.001, Health and Safety Code, is
2 amended by amending Subdivisions (1), (4), (5), and (8) and adding
3 Subdivision (7-a) to read as follows:

4 (1) "Clean transportation zone" means:

5 (A) counties containing or intersected by a
6 portion of an interstate highway connecting the cities of Houston,
7 San Antonio, Dallas, and Fort Worth;

8 (B) counties located within the area bounded by
9 the interstate highways described by Paragraph (A);

10 (C) counties containing or intersected by a
11 portion of:

12 (i) an interstate highway connecting San
13 Antonio to Corpus Christi or Laredo; or

14 (ii) highways connecting Corpus Christi and
15 Laredo;

16 (D) counties located within the area bounded by
17 the highways described by Paragraph (C);

18 (E) counties in this state all or part of which
19 are included in a nonattainment area designated under Section
20 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407); and

21 (F) counties designated as affected counties
22 under Section 386.001 [~~"Advisory board" means the Texas Emissions~~
23 ~~Reduction Plan Advisory Board].~~

24 (4) "Heavy-duty motor vehicle" means a motor vehicle
25 that [with]:

26 (A) has a gross vehicle weight rating of more
27 than 8,500 pounds; and

1 (B) is certified to or has an engine certified to
2 the United States Environmental Protection Agency's emissions
3 standards for heavy-duty vehicles or engines.

4 (5) "Incremental cost" has the meaning assigned by
5 Section 386.001 [~~means the difference between the manufacturer's~~
6 ~~suggested retail price of a baseline vehicle, the documented dealer~~
7 ~~price of a baseline vehicle, cost to lease or otherwise~~
8 ~~commercially finance a baseline vehicle, cost to repower with a~~
9 ~~baseline engine, or other appropriate baseline cost established by~~
10 ~~the commission, and the actual cost of the natural gas vehicle~~
11 ~~purchase, lease, or other commercial financing, or repower~~].

12 (7-a) "Natural gas engine" means an engine that
13 operates:

14 (A) solely on compressed or liquefied natural
15 gas; or

16 (B) receives not less than 75 percent of its
17 power from compressed or liquefied natural gas.

18 (8) "Natural gas vehicle" means a motor vehicle that
19 is powered by a natural gas engine [~~receives not less than 75~~
20 ~~percent of its power from compressed or liquefied natural gas~~].

21 SECTION 22. Section 394.003(a), Health and Safety Code, is
22 amended to read as follows:

23 (a) A vehicle is a qualifying vehicle that may be considered
24 for a grant under the program if during the eligibility period
25 established by the commission [~~calendar year~~] the entity:

26 (1) purchased, leased, or otherwise commercially
27 financed the vehicle as a new on-road heavy-duty or medium-duty

1 motor vehicle that:

2 (A) is a natural gas vehicle;

3 (B) is certified to the appropriate current
4 federal emissions standards as determined by the commission; and

5 (C) replaces an on-road heavy-duty or
6 medium-duty motor vehicle of the same weight classification and
7 use; ~~and~~

8 ~~[(D) is powered by an engine certified to:~~

9 ~~[(i) emit not more than 0.2 grams of~~
10 ~~nitrogen oxides per brake horsepower hour; or~~

11 ~~[(ii) meet or exceed the United States~~
12 ~~Environmental Protection Agency's Bin 5 standard for light-duty~~
13 ~~engines when powering the vehicle;] or~~

14 (2) repowered the on-road motor vehicle to a natural
15 gas vehicle powered by a natural gas engine that [+

16 ~~[(A)]~~ is certified to the appropriate current
17 federal emissions standards as determined by the commission ~~+, and~~

18 ~~[(B) is:~~

19 ~~[(i) a heavy-duty engine that is certified~~
20 ~~to emit not more than 0.2 grams of nitrogen oxides per brake~~
21 ~~horsepower hour; or~~

22 ~~[(ii) certified to meet or exceed the~~
23 ~~United States Environmental Protection Agency's Bin 5 standard for~~
24 ~~light-duty engines when powering the vehicle].~~

25 SECTION 23. Section 394.005, Health and Safety Code, is
26 amended by amending Subsections (a), (b), (c), (f), (g), and (i) and
27 adding Subsection (c-1) to read as follows:

1 (a) The commission [~~by rule~~] shall establish criteria for
2 prioritizing qualifying vehicles eligible to receive grants under
3 this chapter. The commission shall review and revise the criteria
4 as appropriate [~~after consultation with the advisory board~~].

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

6 (1) the use of the qualifying vehicle must be
7 projected to result in a reduction in emissions of nitrogen oxides
8 of at least 25 percent as compared to the motor vehicle or engine
9 being replaced, based on:

10 (A) the baseline emission level set by the
11 commission under Subsection (g); and

12 (B) the certified emission rate of the new
13 vehicle; and

14 (2) the qualifying vehicle must:

15 (A) replace a heavy-duty or medium-duty motor
16 vehicle that:

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

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

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

25 (iv) is in operating condition and has at
26 least two years of remaining useful life, as determined in
27 accordance with criteria established by the commission; [~~or~~]

1 (B) be a heavy-duty or medium-duty motor vehicle
2 repowered with a natural gas engine that:

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

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

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

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

17 (c) As a condition of receiving a grant, the qualifying
18 vehicle must be continuously owned, leased, or otherwise
19 commercially financed and registered and operated in the state by
20 the grant recipient until the earlier of the fourth anniversary of
21 the activity start date established by the commission [~~the date of~~
22 ~~reimbursement of the grant-funded expenses~~] or [~~until~~] the date the
23 vehicle has been in operation for 400,000 miles after the activity
24 start date established by the commission [~~of reimbursement~~]. Not
25 less than 75 percent of the annual use of the qualifying vehicle,
26 either mileage or fuel use as determined by the commission, must
27 occur in the clean transportation zone [+]

1 ~~[(1) the counties any part of which are included in the~~
2 ~~area described by Section 394.010(a); or~~

3 ~~[(2) counties designated as nonattainment areas~~
4 ~~within the meaning of Section 107(d) of the federal Clean Air Act~~
5 ~~(42 U.S.C. Section 7407)].~~

6 (c-1) For purposes of Subsection (c), the commission may
7 establish the activity start date based on the date the commission
8 accepts verification of the disposition of the vehicle or engine.

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

18 (g) The commission shall establish baseline emission levels
19 for emissions of nitrogen oxides for on-road heavy-duty or
20 medium-duty motor vehicles being replaced or repowered by using the
21 emission certification for the engine or vehicle being replaced.
22 The commission may consider deterioration of the emission
23 performance of the engine of the vehicle being replaced in
24 establishing the baseline emission level. The commission may
25 consider and establish baseline emission rates for additional
26 pollutants of concern~~[, as determined by the commission after~~
27 ~~consultation with the advisory board].~~

1 (i) The executive director may [~~shall~~] waive the
2 requirements of Subsection (b)(2)(A)(i) on a finding of good cause,
3 which may include short lapses in registration or operation due to
4 economic conditions, seasonal work, or other circumstances.

5 SECTION 24. Section 394.006, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 394.006. RESTRICTION ON USE OF GRANT. A recipient of a
8 grant under this chapter shall use the grant to pay the incremental
9 costs of the replacement or vehicle repower for which the grant is
10 made, which may include a portion of the initial cost of the natural
11 gas vehicle or natural gas engine, including the cost of the natural
12 gas fuel system and installation [~~and the reasonable and necessary~~
13 ~~expenses incurred for the labor needed to install~~
14 ~~emissions-reducing equipment~~]. The recipient may not use the grant
15 to pay the recipient's administrative expenses.

16 SECTION 25. Section 394.007(c), Health and Safety Code, is
17 amended to read as follows:

18 (c) A person may not receive a grant under this chapter
19 that, when combined with any other grant, tax credit, or other
20 governmental incentive, exceeds the incremental cost of the vehicle
21 or vehicle repower for which the grant is awarded. A person shall
22 return to the commission the amount of a grant awarded under this
23 chapter that, when combined with any other grant, tax credit, or
24 other governmental incentive, exceeds the incremental cost of the
25 vehicle or vehicle repower for which the grant is awarded.

26 SECTION 26. Sections 394.008(a) and (b), Health and Safety
27 Code, are amended to read as follows:

1 (a) The commission shall establish [~~adopt~~] procedures for:

2 (1) awarding grants under this chapter to reimburse
3 eligible costs [~~in the form of rebates~~]; and

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

7 (b) Procedures established [~~adopted~~] under this section
8 must:

9 (1) provide for the commission to compile and
10 regularly update a listing of potentially eligible [~~preapproved~~]
11 natural gas vehicles and engines powered by natural gas that are
12 certified to the appropriate current federal emissions standards as
13 determined by the commission [+

14 [~~(A) powered by natural gas engines certified to~~
15 ~~emit not more than 0.2 grams of nitrogen oxides per brake horsepower~~
16 ~~hour; or~~

17 [~~(B) certified to the United States~~
18 ~~Environmental Protection Agency's light-duty Bin 5 standard or~~
19 ~~better~~];

20 (2) if a federal standard for the calculation of
21 emissions reductions exists, provide a method to calculate the
22 reduction in emissions of nitrogen oxides, volatile organic
23 compounds, carbon monoxide, particulate matter, and sulfur
24 compounds for each replacement or repowering;

25 (3) assign a standardized grant [~~rebate~~] amount for
26 each qualifying vehicle or engine repower under Section 394.007;

27 (4) allow for processing applications [~~rebates~~] on an

1 ongoing first-come, first-served basis;

2 (5) [~~provide for contracts between the commission and~~
3 ~~participating dealers under Section 394.009,~~

4 [~~(6) allow grant recipients to assign their grant~~
5 ~~funds to participating dealers to offset the purchase or lease~~
6 ~~price,~~

7 [~~(7)] require grant applicants to identify natural gas~~

8 fueling stations that are available to fuel the qualifying vehicle

9 in the area of its use;

10 (6) [~~(8)] provide for payment not later than the 30th~~

11 day after the date the request for reimbursement for an approved

12 grant is received;

13 (7) [~~(9)] provide for application submission and~~

14 application status checks, which may include procedures for

15 application submission and status checks to be made over the

16 Internet; and

17 (8) [~~(10)] consolidate, simplify, and reduce the~~

18 administrative work for applicants and the commission associated

19 with grant application, contracting, reimbursement, and reporting

20 requirements.

21 SECTION 27. Section 394.012, Health and Safety Code, is

22 amended to read as follows:

23 Sec. 394.012. EXPIRATION. This chapter expires on the last

24 day of the state fiscal biennium containing the date marking five

25 years from the United States Environmental Protection Agency

26 publication of certification in the Federal Register that, with

27 respect to each national ambient air quality standard for ozone

1 under 40 C.F.R. Section 81.344, the United States Environmental
2 Protection Agency has, for each designated area in Texas under that
3 section:

4 (1) designated the area as attainment or
5 unclassifiable; or

6 (2) approved a redesignation substitute making a
7 finding of attainment for the area [August 31, 2017].

8 SECTION 28. Section 151.0515, Tax Code, is amended to add
9 Subsection (c-1) and to amend Subsection (d) to read as follows:

10 (c-1) (1) Collection of the surcharge imposed by this
11 section shall be suspended for a period beginning September 1,
12 2017, and ending August 31, 2025, with collections to resume
13 September 1, 2025, provided that this section has not expired prior
14 to that date.

15 (2) During the period of suspension in (1), should the
16 Texas commission on environmental quality estimate a balance in the
17 fund at an amount that the appropriations and estimated transfers
18 and other deductions out of the fund for the following state fiscal
19 biennium will cause the balance in the fund to fall below \$500
20 million during that biennium, the commission shall notify the
21 comptroller that the fund is estimated to be below the desired base
22 level. If the comptroller concurs with that estimate, the
23 suspension period will terminate early, and the comptroller shall
24 cause collection of the surcharge to resume beginning September 1
25 of the following state fiscal biennium or as soon thereafter as is
26 feasible, provided that this section has not expired prior to that
27 date.

1 (d) This section expires on the last day of the state fiscal
2 biennium containing the date marking five years from the United
3 States Environmental Protection Agency publication of
4 certification in the Federal Register that, with respect to each
5 national ambient air quality standard for ozone under 40 C.F.R.
6 Section 81.344, the United States Environmental Protection Agency
7 has, for each designated area in Texas under that section:

8 (1) designated the area as attainment or
9 unclassifiable; or

10 (2) approved a redesignation substitute making a
11 finding of attainment for the area [August 31, 2019].

12 SECTION 29. Section 152.0215, Tax Code, is amended to add
13 Subsection (b-1) and to amend Subsection (c) to read as follows:

14 (b-1) (1) Collection of the surcharge imposed by this
15 section shall be suspended for a period beginning September 1,
16 2017, and ending August 31, 2025, with collections to resume
17 September 1, 2025, provided that this section has not expired prior
18 to that date.

19 (2) During the period of suspension in (1), should the
20 Texas commission on environmental quality estimate a balance in the
21 Texas emissions reduction plan fund at an amount that the
22 appropriations and estimated transfers and other deductions out of
23 the fund for the following state fiscal biennium will cause the
24 balance in the fund to fall below \$500 million during that biennium,
25 the commission shall notify the comptroller that the fund is
26 estimated to be below the desired base level. If the comptroller
27 concurs with that estimate, the suspension period will terminate

1 early, and the comptroller shall cause collection of the surcharge
2 to resume beginning September 1 of the following state fiscal
3 biennium or as soon thereafter as is feasible, provided that this
4 section has not expired prior to that date.

5 (c) This section expires on the last day of the state fiscal
6 biennium containing the date marking five years from the United
7 States Environmental Protection Agency publication of
8 certification in the Federal Register that, with respect to each
9 national ambient air quality standard for ozone under 40 C.F.R.
10 Section 81.344, the United States Environmental Protection Agency
11 has, for each designated area in Texas under that section:

12 (1) designated the area as attainment or
13 unclassifiable; or

14 (2) approved a redesignation substitute making a
15 finding of attainment for the area [August 31, 2019].

16 SECTION 30. Section **501.138**, Transportation Code, is
17 amended to amend Subsections (b-1) and (b-3) to read as follows:

18 (b-1) Fees collected under Subsection (b) to be sent to the
19 comptroller shall be deposited to the credit of the Texas Mobility
20 Fund[, ~~except that \$5 of each fee imposed under Subsection (a)(1)~~
21 ~~and deposited on or after September 1, 2008, and before September 1,~~
22 ~~2015, shall be deposited to the credit of the Texas emissions~~
23 ~~reduction plan fund].~~

24 (b-3) This subsection and Subsection (b-2) expire August
25 31, 2017 [2019].

26 SECTION 31. Section **502.358**, Transportation Code, is
27 amended to add Subsection (b-1) and to amend Subsection (c) to read

1 as follows:

2 (b-1) (1) Collection of the surcharge imposed by this
3 section shall be suspended for a period beginning September 1,
4 2017, and ending August 31, 2025, with collections to resume
5 September 1, 2025, provided that this section has not expired prior
6 to that date.

7 (2) During the period of suspension in (1), should the
8 Texas commission on environmental quality estimate a balance in the
9 Texas emissions reduction plan fund at an amount that the
10 appropriations and estimated transfers and other deductions out of
11 the fund for the following state fiscal biennium will cause the
12 balance in the fund to fall below \$500 million during that biennium,
13 the commission shall notify the comptroller that the fund is
14 estimated to be below the desired base level. If the comptroller
15 concurs with that estimate, the suspension period will terminate
16 early, and the comptroller shall cause collection of the surcharge
17 to resume beginning September 1 of the following state fiscal
18 biennium or as soon thereafter as is feasible, provided that this
19 section has not expired prior to that date.

20 (c) This section expires on the last day of the state fiscal
21 biennium containing the date marking five years from the United
22 States Environmental Protection Agency publication of
23 certification in the Federal Register that, with respect to each
24 national ambient air quality standard for ozone under 40 C.F.R.
25 Section 81.344, the United States Environmental Protection Agency
26 has, for each designated area in Texas under that section:

27 (1) designated the area as attainment or

1 unclassifiable; or

2 (2) approved a redesignation substitute making a
3 finding of attainment for the area [August 31, 2019].

4 SECTION 32. The heading to Section 548.5055, Transportation
5 Code, is amended to read as follows:

6 Sec. 548.5055. TEXAS EMISSIONS [~~EMISSION~~] REDUCTION PLAN
7 FEE.

8 SECTION 33. Section 548.5055, Transportation Code, is
9 amended to add Subsection (b-1) and to amend Subsections (b) and (c)
10 to read as follows:

11 (b) The department shall remit fees collected under this
12 section to the comptroller at the time and in the manner prescribed
13 by the comptroller for deposit in the Texas emissions [~~emission~~]
14 reduction plan fund.

15 (b-1) Collection of the fee imposed by this section shall be
16 suspended for a period beginning September 1, 2017, and ending
17 August 31, 2025, with collections to resume September 1, 2025,
18 provided that this section has not expired prior to that date.

19 (2) During the period of suspension in (1), should the
20 Texas commission on environmental quality estimate a balance in the
21 Texas emissions reduction plan fund at an amount that the
22 appropriations and estimated transfers and other deductions out of
23 the fund for the following state fiscal biennium will cause the
24 balance in the fund to fall below \$500 million during that biennium,
25 the commission shall notify the comptroller and the department that
26 the fund is estimated to be below the desired base level. If the
27 comptroller agrees with that estimate, the comptroller shall notify

1 the department and the suspension period will terminate early.
2 Upon notification, the department shall cause collection of the fee
3 to resume beginning September 1 of the following state fiscal
4 biennium or as soon thereafter as is feasible, provided that this
5 section has not expired prior to that date.

6 (c) This section expires on the last day of the state fiscal
7 biennium containing the date marking five years from the United
8 States Environmental Protection Agency publication of
9 certification in the Federal Register that, with respect to each
10 national ambient air quality standard for ozone under 40 C.F.R.
11 Section 81.344, the United States Environmental Protection Agency
12 has, for each designated area in Texas under that section:

13 (1) designated the area as attainment or
14 unclassifiable; or

15 (2) approved a redesignation substitute making a
16 finding of attainment for the area [August 31, 2019].

17 SECTION 34. Sections 394.009, 394.010, and 394.011, Health
18 and Safety Code, are repealed.

19 SECTION 35. The changes in law made by this Act apply only
20 to a Texas emissions reduction plan grant awarded on or after the
21 effective date of this Act. A grant awarded before the effective
22 date of this Act is governed by the law in effect on the date the
23 award was made, and the former law is continued in effect for that
24 purpose.

25 SECTION 36. The changes in law made by this Act apply only
26 to a fee or surcharge collected on or after the effective date of
27 this Act. A fee or surcharge collected before the effective date of

1 this Act is governed by the law in effect when the fee or surcharge
2 was collected, and the former law is continued in effect for that
3 purpose.

4 SECTION 37. This Act takes effect August 30, 2017.