

By: Israel

H.B. No. 2253

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain programs under the Texas Clean Air Act that
3 reduce vehicle emissions and improve air quality; authorizing a
4 fee.

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

6 SECTION 1. Section 382.201, Health and Safety Code, is
7 amended by amending Subdivision (4) and adding Subdivision (4-a)
8 to read as follows:

9 (4) "Participating county" means an affected county in
10 which the commissioners court by resolution has chosen to implement
11 a local initiatives [~~low-income vehicle repair assistance,~~
12 ~~retrofit, and accelerated vehicle retirement~~] program authorized
13 by Section 382.2085 [~~382.209~~].

14 (4-a) "Purchase" means a transaction in which a
15 person:

16 (A) buys a vehicle; or

17 (B) leases a vehicle for a period of at least
18 three years under an agreement that allows the vehicle to be driven
19 at least 12,000 miles a year without a penalty.

20 SECTION 2. Section 382.202, Health and Safety Code, is
21 amended by adding Subsection (g-1) to read as follows:

22 (g-1) The commissioners court of a participating county by
23 order may impose an additional fee, not to exceed \$6, for a vehicle
24 inspected in the county. A fee imposed under this subsection may

1 take effect and be removed in accordance with the requirements of
2 Section 382.2085. The additional fee shall be collected for a
3 vehicle at the same time other fees imposed under this chapter are
4 collected. The fee revenue collected shall be retained by the
5 county in a separate account to be used only for the purposes
6 specified by Section 382.2085.

7 SECTION 3. Section 382.205(f), Health and Safety Code, is
8 amended to read as follows:

9 (f) Rules and procedures under this section must ensure that
10 approved repair facilities participating in a [~~low-income~~] vehicle
11 repair [~~assistance, retrofit,~~] and replacement incentive
12 [~~accelerated vehicle retirement~~] program established under Section
13 382.209 have access to adequate testing equipment.

14 SECTION 4. Section 382.220, Health and Safety Code, is
15 transferred to Subchapter G, Chapter 382, Health and Safety Code,
16 redesignated as Section 382.2085, Health and Safety Code, and
17 amended to read as follows:

18 Sec. 382.2085. [~~382.220. USE OF FUNDING FOR~~] LOCAL
19 INITIATIVES PROGRAM [~~INITIATIVE PROJECTS~~]. (a) The commission and
20 the Public Safety Commission by joint rule shall establish and
21 authorize the commissioners court of an affected county to
22 implement a local initiatives program subject to agency oversight
23 that may include reasonable periodic commission audits.

24 (b) The local initiatives program must be funded with
25 available money collected under Section 382.202 or 382.302 or other
26 designated and available money. The program shall be [~~Money that is~~
27 ~~made available to participating counties under Section 382.202(g)~~

1 ~~or 382.302 may be appropriated only for programs]~~ administered in
2 accordance with Chapter 783, Government Code~~[, to improve air~~
3 ~~quality]~~.

4 (c) A participating county may agree to contract with any
5 appropriate entity, including a metropolitan planning organization
6 or a council of governments, to implement a program under Section
7 382.202~~[, 382.209,]~~ or this section.

8 (d) ~~(b)~~ A program under this section must be approved by
9 the commissioners court of the county in which the program is
10 located ~~[implemented in consultation with the commission]~~ and may
11 include a program to:

12 (1) develop and implement projects supporting freeway
13 incident management and associated first responders ~~[expand and~~
14 ~~enhance the AirCheck Texas Repair and Replacement Assistance~~
15 ~~Program]~~;

16 (2) develop and implement programs or systems that
17 remotely determine vehicle emissions and notify the vehicle's
18 operator;

19 (3) develop and implement projects to implement the
20 commission's smoking vehicle program;

21 (4) develop and implement projects in consultation
22 with the director of the Department of Public Safety for
23 coordinating with local law enforcement officials to reduce the use
24 of counterfeit registration insignia, temporary registration
25 plates, and vehicle inspection reports by providing local law
26 enforcement officials with funds to identify vehicles with
27 counterfeit registration insignia, temporary registration plates,

1 and vehicle inspection reports and to carry out appropriate
2 actions;

3 (5) develop and implement programs to enhance
4 transportation system improvements; ~~[or]~~

5 (6) develop and implement new air control strategies
6 designed to assist local areas in complying with state and federal
7 air quality rules and regulations;

8 (7) develop and implement a local vehicle repair and
9 replacement incentive program under Section 382.209;

10 (8) develop and implement regional data collection
11 efforts for air quality and multimodal transportation data to
12 improve efficiency of transportation systems; or

13 (9) establish publicly accessible refueling
14 infrastructure for alternative fuel vehicles.

15 ~~(e) [(c) Money that is made available for the~~
16 ~~implementation of a program under Subsection (b) may not be~~
17 ~~expended for local government fleet or vehicle acquisition or~~
18 ~~replacement, call center management, application oversight,~~
19 ~~invoice analysis, education, outreach, or advertising purposes.~~

20 ~~[(d)] Fees collected under Sections 382.202 and 382.302 may~~
21 ~~be used by participating counties [in an amount not to exceed \$7~~
22 ~~million per fiscal year for projects described by Subsection (b),~~
23 ~~of which \$2 million may be used] only for projects described by~~
24 ~~Subsection (d) [(b)(4)].~~

25 (f) The commissioners court of a participating county may
26 adopt a resolution to end fee collection for the local initiatives
27 program in the county. The commissioners court shall submit the

1 resolution to the commission and to the county tax
2 assessor-collector. The resolution must include a date after which
3 a fee may not be imposed under Section 382.202 or 382.302 for the
4 purposes of the county's local initiatives program on vehicles
5 being inspected or registered in the county. The date must be:

- 6 (1) the first day of a month; and
7 (2) at least 90 days after the date the resolution is
8 submitted to the commission.

9 (g) On receipt of a resolution under Subsection (f), the
10 commission shall notify in writing the Texas Department of Motor
11 Vehicles, the Department of Public Safety, and the Legislative
12 Budget Board that a fee may not be imposed under Section 382.202 or
13 382.302 for the purposes of the county's local initiatives program
14 on vehicles being inspected or registered in the county after the
15 date established under Subsection (f). [The remaining \$5 million
16 may be used for any project described by Subsection (b). The fees
17 shall be made available only to counties participating in the
18 low-income vehicle repair assistance, retrofit, and accelerated
19 vehicle retirement programs created under Section 382.209 and only
20 on a matching basis, whereby the commission provides money to a
21 county in the same amount that the county dedicates to a project
22 authorized by Subsection (b). The commission may reduce the match
23 requirement for a county that proposes to develop and implement
24 independent test facility fraud detection programs, including the
25 use of remote sensing technology for coordinating with law
26 enforcement officials to detect, prevent, and prosecute the use of
27 counterfeit registration insignia and vehicle inspection reports.]

1 SECTION 5. Section 382.209, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 382.209. [~~LOW-INCOME~~] VEHICLE REPAIR AND REPLACEMENT
4 INCENTIVE [~~ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE~~
5 ~~RETIREMENT~~] PROGRAM. (a) The commission and the Public Safety
6 Commission by joint rule shall establish and authorize the
7 commissioners court of a participating county to implement a
8 [~~low-income~~] vehicle repair and replacement incentive [~~assistance,~~
9 ~~retrofit, and accelerated vehicle retirement~~] program subject to
10 agency oversight that may include reasonable periodic commission
11 audits.

12 (b) A participating county shall administer a vehicle
13 repair and replacement incentive program established under this
14 section [~~The commission shall provide funding for local low-income~~
15 ~~vehicle repair assistance, retrofit, and accelerated vehicle~~
16 ~~retirement programs with available funds collected under Section~~
17 ~~382.202, 382.302, or other designated and available funds. The~~
18 ~~programs shall be administered~~] in accordance with Chapter 783,
19 Government Code. Program costs may include call center management,
20 application oversight, invoice analysis, education, outreach, and
21 advertising. Not more than 10 percent of the money used for a
22 [~~provided to a local low-income~~] vehicle repair and replacement
23 incentive [~~assistance, retrofit, and accelerated vehicle~~
24 ~~retirement~~] program [~~under this section~~] may be used for the
25 administration of the program [~~programs~~], including program costs.

26 (c) The rules adopted under Subsection (a) must provide
27 procedures for ensuring that a vehicle repair and replacement

1 incentive program implemented under authority of that subsection
2 does not apply to a vehicle that is:

3 (1) registered under Section 504.501 or 504.502,
4 Transportation Code; and

5 (2) not regularly used for transportation during the
6 normal course of daily activities.

7 (d) Subject to the availability of funds, a [~~low-income~~]
8 vehicle repair and replacement incentive [~~assistance, retrofit,~~
9 ~~and accelerated vehicle retirement~~] program established under this
10 section shall provide monetary or other compensatory assistance
11 for:

12 (1) repairs directly related to bringing certain
13 vehicles that have failed a required emissions test into compliance
14 with emissions requirements;

15 (2) a replacement vehicle or replacement assistance
16 for a vehicle that has failed a required emissions test and for
17 which the cost of repairs needed to bring the vehicle into
18 compliance is uneconomical; and

19 (3) installing retrofit equipment on vehicles that
20 have failed a required emissions test, if practically and
21 economically feasible, in lieu of or in combination with repairs
22 performed under Subdivision (1).

23 (d-1) The commission and the Department of Public Safety of
24 the State of Texas shall establish standards and specifications for
25 retrofit equipment that may be used under this section.

26 (e) A vehicle is not eligible to participate in a
27 [~~low-income~~] vehicle repair and replacement incentive [~~assistance,~~

1 ~~retrofit, and accelerated vehicle retirement~~] program established
2 under this section unless:

3 (1) the vehicle is capable of being operated;

4 (2) the ~~registration of the~~ vehicle:

5 (A) is registered in a county implementing the
6 program ~~current~~; or ~~and~~

7 (B) ~~reflects that the vehicle~~ has been
8 registered in a the county implementing the program for at least
9 12 of the 15 months preceding the application for participation in
10 the program;

11 (3) the commissioners court of the county
12 administering the program determines that the vehicle meets the
13 eligibility criteria adopted by the commission, the Texas
14 Department of Motor Vehicles, and the Public Safety Commission;

15 (4) if the vehicle is to be repaired, the repair is
16 done by a repair facility recognized by the Department of Public
17 Safety, which may be an independent or private entity licensed by
18 the state; and

19 (5) if the vehicle is to be retired under this
20 subsection and Section [382.213](#), the replacement vehicle is a
21 qualifying motor vehicle.

22 (f) A fleet vehicle, a vehicle owned or leased by a
23 governmental entity, or a commercial vehicle is not eligible to
24 participate in a ~~low-income~~ vehicle repair and replacement
25 incentive ~~assistance, retrofit, and accelerated vehicle~~
26 ~~retirement~~] program established and implemented under this
27 section.

1 (g) A participating county may contract with any
2 appropriate entity, including the regional council of governments
3 or the metropolitan planning organization in the appropriate
4 region, or with another county for services necessary to implement
5 the participating county's [~~low-income~~] vehicle repair and
6 replacement incentive [~~assistance, retrofit, and accelerated~~
7 ~~vehicle retirement~~] program. The participating counties in a
8 nonattainment region or counties participating in an early action
9 compact under Subchapter H may agree to have the money collected in
10 any one county be used in any other participating county in the same
11 region.

12 (h) Participation by an affected county in a [~~low-income~~]
13 vehicle repair and replacement incentive [~~assistance, retrofit,~~
14 ~~and accelerated vehicle retirement~~] program is not mandatory. To
15 the extent allowed by federal law, any emissions reductions
16 attributable to a [~~low-income~~] vehicle repair and replacement
17 incentive [~~assistance, retrofit, and accelerated vehicle~~
18 ~~retirement~~] program in a county that are attained during a period
19 before the county is designated as a nonattainment county shall be
20 considered emissions reductions credit if the county is later
21 determined to be a nonattainment county.

22 (i) Notwithstanding the vehicle replacement requirements
23 provided by Subsection (d)(2), the commission by rule may provide
24 monetary or other compensatory assistance under the [~~low-income~~]
25 vehicle repair and replacement incentive [~~assistance, retrofit,~~
26 ~~and accelerated vehicle retirement~~] program, subject to the
27 availability of funds, for the replacement of a vehicle that meets

1 the following criteria:

2 (1) the vehicle is gasoline-powered and is at least 10
3 years old;

4 (2) the vehicle owner meets applicable financial
5 eligibility criteria;

6 (3) the vehicle meets the requirements provided by
7 Subsections (e)(1) and (2); and

8 (4) the vehicle has passed a Department of Public
9 Safety motor vehicle safety inspection or safety and emissions
10 inspection within the 15-month period before the application is
11 submitted.

12 (j) The commissioners court of a participating county
13 [~~commission~~] may provide monetary or other compensatory assistance
14 under the [~~low-income~~] vehicle repair and replacement incentive
15 [~~assistance, retrofit, and accelerated vehicle retirement~~] program
16 for a replacement vehicle or replacement assistance for a pre-1996
17 model year replacement vehicle that passes the required United
18 States Environmental Protection Agency Start-Up Acceleration
19 Simulation Mode Standards emissions test but that would have failed
20 the United States Environmental Protection Agency Final
21 Acceleration Simulation Mode Standards emissions test or failed to
22 meet some other criterion determined by the commission; provided,
23 however, that a replacement vehicle under this subsection must be a
24 qualifying motor vehicle.

25 SECTION 6. Sections 382.210(a), (b), and (f), Health and
26 Safety Code, are amended to read as follows:

27 (a) The commission by rule shall adopt guidelines to assist

1 a participating county in implementing a [~~low-income~~] vehicle
2 repair [~~assistance, retrofit,~~] and replacement incentive
3 [~~accelerated vehicle retirement~~] program authorized under Section
4 382.209. The guidelines at a minimum shall recommend:

5 (1) a minimum and maximum amount for repair
6 assistance;

7 (2) a minimum and maximum amount toward the purchase
8 price of a replacement vehicle [~~qualified for the accelerated~~
9 ~~retirement program~~], based on vehicle type and model year, with the
10 maximum amount not to exceed:

11 (A) \$4,000 [~~\$3,000~~] for a replacement car of the
12 current model year or the previous three model years, except as
13 provided by Paragraph (C);

14 (B) \$4,000 [~~\$3,000~~] for a replacement truck of
15 the current model year or the previous two model years, except as
16 provided by Paragraph (C); and

17 (C) \$4,500 [~~\$3,500~~] for a replacement vehicle of
18 the current model year or the previous three model years that:

19 (i) is a hybrid vehicle, electric vehicle,
20 or natural gas vehicle; or

21 (ii) has been certified to meet federal
22 Tier 2, Bin 3 or a cleaner Bin certification under 40 C.F.R. Section
23 86.1811-04, as published in the February 10, 2000, Federal
24 Register;

25 (3) criteria for determining eligibility, taking into
26 account:

27 (A) [~~the vehicle owner's income, which may not~~

1 ~~exceed 300 percent of the federal poverty level;~~

2 [~~(B)~~] the fair market value of the vehicle; and

3 (B) [~~(C)~~] any other relevant considerations;

4 (4) safeguards for preventing fraud in the repair,
5 purchase, or sale of a vehicle in the program; and

6 (5) procedures for determining the degree and amount
7 of repair assistance a vehicle is allowed, based on:

8 (A) the amount of money the vehicle owner has
9 spent on repairs; and

10 (B) [~~the vehicle owner's income; and~~

11 [~~(C)~~] any other relevant factors.

12 (b) A replacement vehicle described by Subsection (a)(2)
13 must:

14 (1) except as provided by Subsection (c), be a vehicle
15 in a class or category of vehicles that has been certified to meet
16 federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R.
17 Section 86.1811-04, as published in the February 10, 2000, Federal
18 Register;

19 (2) have a gross vehicle weight rating of less than
20 10,000 pounds;

21 (3) have an odometer reading of not more than 85,000
22 [~~70,000~~] miles; and

23 (4) be a vehicle the total purchase price [~~cost~~] of
24 which does not exceed:

25 (A) for a vehicle described by Subsection
26 (a)(2)(A) or (B), \$35,000; or

27 (B) for a vehicle described by Subsection

1 (a)(2)(C), \$45,000.

2 (f) For the purposes of Subsection (b), a reference to the
3 total purchase price of a motor vehicle that is sold [~~In this~~
4 ~~section, "total cost"~~] means the total amount of money paid or to be
5 paid for the purchase of a motor vehicle as set forth as "sales
6 price" in the form entitled "Application for Texas Certificate of
7 Title" promulgated by the Texas Department of Motor Vehicles. In a
8 transaction that does not involve the use of that form, the term
9 means an amount of money that is equivalent, or substantially
10 equivalent, to the amount that would appear as "sales price" on the
11 Application for Texas Certificate of Title if that form were
12 involved.

13 SECTION 7. Section 382.211(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) The commissioners court of a participating county may
16 appoint one or more local advisory panels consisting of
17 representatives of automobile dealerships, the automotive repair
18 industry, safety inspection facilities, the public, antique and
19 vintage car clubs, local nonprofit organizations, and locally
20 affected governments to advise the county regarding the operation
21 of the county's [~~low-income~~] vehicle repair [~~assistance,~~
22 ~~retrofit,~~] and replacement incentive [~~accelerated vehicle~~
23 ~~retirement~~] program, including the identification of a vehicle make
24 or model with intrinsic value as an existing or future collectible.

25 SECTION 8. Section 382.212(b), Health and Safety Code, is
26 amended to read as follows:

27 (b) To the extent allowable under federal law, the

1 commission by rule shall authorize:

2 (1) the assignment of a percentage of emissions
3 reduction credit to a private, commercial, or business entity that
4 purchases, for accelerated retirement, a qualified vehicle under a
5 ~~[low-income]~~ vehicle repair ~~[assistance, retrofit,]~~ and
6 replacement incentive ~~[accelerated vehicle retirement]~~ program;

7 (2) the transferability of an assigned emissions
8 reduction credit;

9 (3) the use of emissions reduction credit by the
10 holder of the credit against any state or federal emissions
11 requirements applicable to a facility owned or operated by the
12 holder of the credit;

13 (4) the assignment of a percentage of emissions
14 reduction credit, on the retirement of a fleet vehicle, a vehicle
15 owned or leased by a governmental entity, or a commercial vehicle,
16 to the owner or lessor of the vehicle; and

17 (5) other actions relating to the disposition or use
18 of emissions reduction credit that the commission determines will
19 benefit the implementation of ~~[low-income]~~ vehicle repair
20 ~~[assistance, retrofit,]~~ and replacement incentive ~~[accelerated~~
21 ~~vehicle retirement]~~ programs established under Section 382.209.

22 SECTION 9. Section 382.213(a), Health and Safety Code, is
23 amended to read as follows:

24 (a) Except as provided by Subsection (c) and Subdivision (5)
25 of this subsection, a vehicle retired under a vehicle repair and
26 replacement incentive program established under ~~[an accelerated~~
27 ~~vehicle retirement program authorized by]~~ Section 382.209 may not

1 be resold or reused in its entirety in this or another state.
2 Subject to the provisions of Subsection (i), the automobile dealer
3 who takes possession of the vehicle must submit to the program
4 administrator proof, in a manner adopted by the commission, that
5 the vehicle has been retired. The vehicle must be:

6 (1) destroyed;

7 (2) recycled;

8 (3) dismantled and its parts sold as used parts or used
9 in the program;

10 (4) placed in a storage facility of a program
11 established under Section 382.209 and subsequently destroyed,
12 recycled, or dismantled and its parts sold or used in the program;
13 or

14 (5) repaired, brought into compliance, and used as a
15 replacement vehicle under Section 382.209(d)(2).

16 SECTION 10. Section 382.214, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 382.214. SALE OF VEHICLE WITH INTENT TO DEFRAUD. (a)
19 A person who with intent to defraud sells a vehicle that is retired
20 under a [in an accelerated] vehicle repair and replacement
21 incentive [retirement] program established under Section 382.209
22 commits an offense that is a third degree felony.

23 (b) Sale of a vehicle described by Subsection (a) [in an
24 accelerated vehicle retirement program] includes:

25 (1) sale of the vehicle to retire the vehicle under the
26 program; and

27 (2) sale of a vehicle purchased for retirement under

1 the program.

2 SECTION 11. Section 382.216, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 382.216. INCENTIVES FOR VOLUNTARY PARTICIPATION IN
5 VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM. The
6 commission, the Texas Department of Transportation, and the Public
7 Safety Commission may, subject to federal limitations:

8 (1) encourage counties likely to exceed federal clean
9 air standards to implement voluntary:

10 (A) motor vehicle emissions inspection and
11 maintenance programs; and

12 (B) [~~low-income~~] vehicle repair [~~assistance,~~
13 ~~retrofit,~~] and replacement incentive [~~accelerated vehicle~~
14 ~~retirement~~] programs;

15 (2) establish incentives for counties to voluntarily
16 implement motor vehicle emissions inspection and maintenance
17 programs and [~~low-income~~] vehicle repair [~~assistance, retrofit,~~
18 and replacement incentive [~~accelerated vehicle retirement~~]
19 programs; and

20 (3) designate a county that voluntarily implements a
21 motor vehicle emissions inspection and maintenance program or a
22 [~~low-income~~] vehicle repair [~~assistance, retrofit,~~] and
23 replacement incentive [~~accelerated vehicle retirement~~] program as
24 a "Clean Air County" and give preference to a county designated as a
25 Clean Air County in any federal or state clean air grant program.

26 SECTION 12. Section 382.302(e), Health and Safety Code, is
27 amended to read as follows:

1 (e) A participating county may participate in a local
2 initiatives [~~the~~] program established under Section 382.2085
3 [~~382.209~~].

4 SECTION 13. Section 382.202(g), Health and Safety Code, is
5 repealed.

6 SECTION 14. On the effective date of this Act, each
7 low-income vehicle repair assistance, retrofit, and accelerated
8 vehicle retirement program established under Section 382.209,
9 Health and Safety Code, is abolished.

10 SECTION 15. As soon as practicable after the effective date
11 of this Act, the Texas Commission on Environmental Quality and the
12 Public Safety Commission shall:

13 (1) adopt the joint rules required by Sections
14 382.2085, Health and Safety Code, as transferred, redesignated, and
15 amended by this Act, and 382.209, Health and Safety Code, as amended
16 by this Act; and

17 (2) adopt or modify any rules necessary to implement
18 the changes in law made by this Act.

19 SECTION 16. This Act takes effect September 1, 2019.