

By: Watson

S.B. No. 1070

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.