

By: Johnson

S.B. No. 1804

A BILL TO BE ENTITLED

AN ACT

relating to use of Texas emissions reduction plan funds for a small non-road engine purchase incentive program.

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

SECTION 1. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

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

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a);

(7) a health effects study as provided by Section 386.252(a);

(8) air quality planning activities as provided by

1 Section 386.252(d);

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

6 (10) the Texas clean fleet program established under  
7 Chapter 392;

8 (11) the Texas alternative fueling facilities program  
9 established under Chapter 393;

10 (12) the Texas natural gas vehicle grant program  
11 established under Chapter 394;

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

16 (14) other programs the commission may develop that  
17 support congestion mitigation to reduce mobile source ozone  
18 precursor emissions;

19 (15) the seaport and rail yard areas emissions  
20 reduction program established under Subchapter D-1;

21 (16) conducting research and other activities  
22 associated with making any necessary demonstrations to the United  
23 States Environmental Protection Agency to account for the impact of  
24 foreign emissions or an exceptional event;

25 (17) studies of or pilot programs for incentives for  
26 port authorities located in nonattainment areas or affected  
27 counties as provided by Section 386.252(a); ~~and~~

1 (18) the governmental alternative fuel fleet grant  
2 program established under Chapter 395; and

3 (19) the small non-road engines purchase incentive  
4 program established under Subchapter G.

5 SECTION 2. Section 386.252(a), Health and Safety Code, as  
6 effective September 1, 2021, is amended to read as follows:

7 (a) Money in the fund and account may be used only to  
8 implement and administer programs established under the plan.  
9 Subject to the reallocation of funds by the commission under  
10 Subsection (h), money from the fund and account to be used for the  
11 programs under Section 386.051(b) shall initially be allocated as  
12 follows:

13 (1) four percent may be used for the clean school bus  
14 program under Chapter 390;

15 (2) three percent may be used for the new technology  
16 implementation grant program under Chapter 391, from which at least  
17 \$1 million will be set aside for electricity storage projects  
18 related to renewable energy;

19 (3) five percent may be used for the Texas clean fleet  
20 program under Chapter 392;

21 (4) not more than \$3 million may be used by the  
22 commission to fund a regional air monitoring program in commission  
23 Regions 3 and 4 to be implemented under the commission's oversight,  
24 including direction regarding the type, number, location, and  
25 operation of, and data validation practices for, monitors funded by  
26 the program through a regional nonprofit entity located in North  
27 Texas having representation from counties, municipalities, higher

1 education institutions, and private sector interests across the  
2 area;

3 (5) 10 percent may be used for the Texas natural gas  
4 vehicle grant program under Chapter 394;

5 (6) not more than \$6 million may be used for the Texas  
6 alternative fueling facilities program under Chapter 393, of which  
7 a specified amount may be used for fueling stations to provide  
8 natural gas fuel, except that money may not be allocated for the  
9 Texas alternative fueling facilities program for the state fiscal  
10 year ending August 31, 2019;

11 (7) not more than \$750,000 may be used each year to  
12 support research related to air quality as provided by Chapter 387;

13 (8) not more than \$200,000 may be used for a health  
14 effects study;

15 (9) at least \$6 million but not more than \$16 million  
16 may be used by the commission for administrative costs, including  
17 all direct and indirect costs for administering the plan, costs for  
18 conducting outreach and education activities, and costs  
19 attributable to the review or approval of applications for  
20 marketable emissions reduction credits;

21 (10) six percent may be used by the commission for the  
22 seaport and rail yard areas emissions reduction program established  
23 under Subchapter D-1;

24 (11) five percent may be used for the light-duty motor  
25 vehicle purchase or lease incentive program established under  
26 Subchapter D;

27 (12) not more than \$216,000 may be used by the

1 commission to contract with the Energy Systems Laboratory at the  
2 Texas A&M Engineering Experiment Station annually for the  
3 development and annual computation of creditable statewide  
4 emissions reductions obtained through wind and other renewable  
5 energy resources for the state implementation plan;

6 (13) not more than \$500,000 may be used for studies of  
7 or pilot programs for incentives for port authorities located in  
8 nonattainment areas or affected counties to encourage cargo  
9 movement that reduces emissions of nitrogen oxides and particulate  
10 matter; ~~and~~

11 (14) two percent may be used for the small non-road  
12 engine purchase incentive program established under Subchapter G;  
13 and

14 (15) the balance is to be used by the commission for  
15 the diesel emissions reduction incentive program under Subchapter C  
16 as determined by the commission.

17 SECTION 3. Chapter 386, Health and Safety Code, is amended  
18 by adding Subchapter G to read as follows:

19 SUBCHAPTER G. SMALL NON-ROAD ENGINE PURCHASE INCENTIVE PROGRAM

20 Sec. 386.301. DEFINITIONS. In this subchapter:

21 (1) "Four-stroke engine" means an engine that goes  
22 through the steps of compression, power, exhaust, and intake in  
23 four piston strokes.

24 (2) "Non-road engine" means equipment powered by an  
25 engine with under 25 horsepower.

26 (3) "Ozone precursors" means pollutants, including  
27 nitrogen oxides and volatile organic compounds, that create ground

1 level ozone through chemical reactions.

2 (4) "Program" means the small non-road engine program  
3 established under this subchapter.

4 (5) "Two-stroke engine" means an engine that goes  
5 through the steps of compression, power, exhaust, and intake in two  
6 piston strokes and mixes fuel with oil in the process.

7 Sec. 386.302. PROGRAM CREATION; PURPOSE. (a) The  
8 commission shall develop a purchase incentive program designed to  
9 reduce emissions, including the emissions of ozone precursors,  
10 particulate matter, and carbon monoxide, produced by two-stroke and  
11 four-stroke non-road engines.

12 (b) The program shall authorize statewide financial  
13 incentives for the purchase of certain batteries and new  
14 electrically-powered non-road engines by persons in this state.

15 (c) The commission shall adopt rules necessary to implement  
16 the program, including designating alternative technologies and  
17 products eligible for incentives.

18 Sec. 386.303. ELIGIBILITY. (a) The purchase of certain  
19 batteries or non-road engines by a person in this state is eligible  
20 for an incentive under the program if:

21 (1) the battery purchased is necessary to improve the  
22 efficiency of an electrically-powered non-road engine owned or  
23 operated by the person, as established by commission rule;

24 (2) the non-road engine purchased is  
25 electrically-powered or powered by another alternative technology  
26 designated by the commission;

27 (3) the purchase meaningfully reduces emissions in

1 this state, as determined under Subsection (b); and

2 (4) the purchase satisfies any minimum purchase  
3 quantity requirements established by the commission to ensure  
4 efficient administration of the program.

5 (b) The commission shall establish criteria for determining  
6 whether a purchase of non-road engines or certain batteries  
7 meaningfully reduces emissions in this state. The commission shall  
8 review and revise the criteria as appropriate. The criteria must  
9 include:

10 (1) the proposed frequency of use of the newly  
11 purchased non-road engine;

12 (2) the degree to which the purchase reduces the use of  
13 existing two-stroke and four-stroke non-road engines; and

14 (3) the cost-effectiveness of the purchase as it  
15 relates to advancing the purpose of the program under Section  
16 386.301.

17 (c) When establishing criteria under this section, the  
18 commission may allow for greater incentives for purchases that  
19 reduce:

20 (1) health risks to operators when using equipment  
21 with non-road engines; and

22 (2) emissions of ozone precursors from non-road  
23 engines that operate primarily within a nonattainment area or an  
24 affected county.

25 (d) The commission may require the disposal of a two-stroke  
26 engine or four-stroke engines replaced by a non-road engine that is  
27 the subject of an incentive under this subchapter.

1       Sec. 386.304. APPLICATION FOR INCENTIVE. (a) A person who  
2 makes a purchase that meets the eligibility requirements under  
3 Section 386.303 may apply for an incentive under the program.

4       (b) An application for an incentive under this chapter must  
5 be made on a form provided by the commission and must contain any  
6 information necessary to:

7           (1) determine whether the project meets eligibility  
8 requirements; and

9           (2) ensure the efficient administration of the  
10 program.

11       (c) To reduce the administrative burden for the commission  
12 and applicants, the commission may streamline the application  
13 process by:

14           (1) reducing data entry and the copying of  
15 applications; and

16           (2) implementing a system to accept applications  
17 electronically through the commission's Internet website.

18       Sec. 386.305. AMOUNT OF INCENTIVE; ADMINISTRATION. (a) An  
19 incentive provided under this subchapter may not exceed 80 percent  
20 of the cost of eligible purchases of non-road engines and certain  
21 batteries.

22       (b) The commission shall set standards for determining  
23 incentive amounts, and may revise these standards as needed to:

24           (1) reflect changes to federal emission standards and  
25 developments in technological capabilities and scientific  
26 knowledge; and

27           (2) maximize the cost-effectiveness of the program in



1 reducing emissions.

2 (c) The commission shall publicize and promote the  
3 availability of incentives under this subchapter to encourage  
4 eligible purchases of non-road engines.

5 (d) The commission shall include in the biennial plan report  
6 required by Section 386.057(b) a report of commission actions and  
7 results under this subchapter.

8 SECTION 4. The Texas Commission on Environmental Quality  
9 shall adopt rules and establish procedures under Subchapter G,  
10 Chapter 386, Health and Safety Code, as added by this Act, as soon  
11 as practicable after the effective date of this Act.

12 SECTION 5. This Act takes effect September 1, 2021.