

By: Johnson

S.B. No. 727

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a small non-road engine purchase incentive program under the Texas emissions reduction plan.

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);

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

3 (19) remittance of funds to the state highway fund for  
4 use by the Texas Department of Transportation for congestion  
5 mitigation and air quality improvement projects in nonattainment  
6 areas and affected counties; ~~and~~

7 (20) the Texas hydrogen infrastructure, vehicle, and  
8 equipment grant program established under Subchapter G; and

9 (21) the small non-road engine purchase incentive  
10 program established under Subchapter H.

11 SECTION 2. Section 386.252(a), Health and Safety Code, is  
12 amended to read as follows:

13 (a) Money in the fund and account may be used only to  
14 implement and administer programs established under the plan.  
15 Subject to the reallocation of funds by the commission under  
16 Subsection (h) and after remittance to the state highway fund under  
17 Subsection (a-1), money from the fund and account to be used for the  
18 programs under Section 386.051(b) shall initially be allocated as  
19 follows:

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

22 (2) eight percent total may be used between the Texas  
23 hydrogen infrastructure, vehicle, and equipment grant program  
24 established under Subchapter G and the new technology  
25 implementation grant program under Chapter 391, from which at least  
26 \$1 million will be set aside for electricity storage projects  
27 related to renewable energy and not more than \$8 million may be used

1 for the Texas hydrogen infrastructure, vehicle, and equipment grant  
2 program;

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

5 (4) not more than \$3 million may be used by the  
6 commission to fund a regional air monitoring program in commission  
7 Regions 3 and 4 to be implemented under the commission's oversight,  
8 including direction regarding the type, number, location, and  
9 operation of, and data validation practices for, monitors funded by  
10 the program through a regional nonprofit entity located in North  
11 Texas having representation from counties, municipalities, higher  
12 education institutions, and private sector interests across the  
13 area;

14 (5) 7.5 percent may be used for the Texas natural gas  
15 vehicle grant program under Chapter 394;

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

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

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

26 (9) at least \$6 million but not more than 15 percent  
27 may be used by the commission for administrative costs, including

1 all direct and indirect costs for administering the plan, costs for  
2 conducting outreach and education activities, and costs  
3 attributable to the review or approval of applications for  
4 marketable emissions reduction credits;

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

8 (11) 2.5 percent may be used for the light-duty motor  
9 vehicle purchase or lease incentive program established under  
10 Subchapter D;

11 (12) not more than \$500,000 may be used by the  
12 commission to contract with the Energy Systems Laboratory at the  
13 Texas A&M Engineering Experiment Station annually for the  
14 development and annual computation of creditable statewide  
15 emissions reductions for the state implementation plan that are  
16 obtained through:

17 (A) wind and other renewable energy resources;

18 (B) energy efficiency programs administered by  
19 the Public Utility Commission of Texas or the State Energy  
20 Conservation Office; or

21 (C) the implementation of advanced building  
22 energy codes;

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

1           (14) two percent may be used for the small non-road  
2 engine purchase incentive program established under Subchapter H;  
3 and

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

7           SECTION 3. Chapter 386, Health and Safety Code, is amended  
8 by adding Subchapter H to read as follows:

9           SUBCHAPTER H. SMALL NON-ROAD ENGINE PURCHASE INCENTIVE PROGRAM

10           Sec. 386.351. DEFINITIONS. In this subchapter:

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

14           (2) "Non-road engine" means an engine powering  
15 equipment that has less than 25 horsepower.

16           (3) "Ozone precursors" means pollutants, including  
17 nitrogen oxides and volatile organic compounds, that create ground  
18 level ozone through chemical reactions.

19           (4) "Program" means the small non-road engine purchase  
20 incentive program established under this subchapter.

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

24           Sec. 386.352. PROGRAM. (a) The commission shall develop a  
25 small non-road engine purchase incentive program designed to reduce  
26 emissions, including the emissions of ozone precursors,  
27 particulate matter, and carbon monoxide, produced by two-stroke and

1 four-stroke non-road engines.

2 (b) The program shall authorize statewide financial  
3 incentives for the purchase by persons in this state of:

4 (1) new non-road engines that are electrically powered  
5 or powered by another alternative technology designated by the  
6 commission; and

7 (2) batteries designated by the commission.

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

11 Sec. 386.353. ELIGIBILITY. (a) The purchase by a person in  
12 this state of non-road engines or batteries is eligible for an  
13 incentive under the program if:

14 (1) as applicable:

15 (A) the non-road engine purchased is  
16 electrically powered or powered by another alternative technology  
17 designated by the commission; or

18 (B) the battery purchased is necessary to improve  
19 the efficiency of an electrically powered non-road engine owned or  
20 operated by the person, as established by commission rule;

21 (2) the purchase meaningfully reduces emissions in  
22 this state, as determined by the criteria established under  
23 Subsection (b); and

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

27 (b) The commission shall establish criteria for determining

1 whether a purchase of non-road engines or batteries meaningfully  
2 reduces emissions in this state. The commission shall review and  
3 revise the criteria as appropriate. The criteria must include:

4 (1) the proposed frequency of use of the newly  
5 purchased non-road engine;

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

8 (3) the cost-effectiveness of the purchase as it  
9 relates to advancing the purpose of the program under Section  
10 386.352(a).

11 (c) When establishing criteria under this section, the  
12 commission may allow for greater incentives for purchases that  
13 reduce:

14 (1) health risks to equipment operators when using  
15 non-road engines; and

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

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

22 Sec. 386.354. APPLICATION FOR INCENTIVE. (a) A person who  
23 makes a purchase that meets the eligibility requirements under  
24 Section 386.353 may apply for an incentive under the program.

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



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

3           (2) ensure the efficient administration of the  
4 program.

5           (c) To reduce the administrative burden for the commission  
6 and applicants, the commission may streamline the application  
7 process by:

8           (1) reducing data entry and the copying of  
9 applications; and

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

12           Sec. 386.355. AMOUNT OF INCENTIVE; ADMINISTRATION. (a) An  
13 incentive provided under this subchapter may not exceed 80 percent  
14 of the cost of eligible purchases of non-road engines and  
15 batteries.

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

18           (1) reflect changes to federal emission standards and  
19 developments in technological capabilities and scientific  
20 knowledge; and

21           (2) maximize the cost-effectiveness of the program in  
22 reducing emissions.

23           (c) The commission shall publicize and promote the  
24 availability of incentives under this subchapter to encourage  
25 eligible purchases of non-road engines and batteries.

26           (d) The commission shall include in the biennial plan report  
27 required by Section 386.057(b) a report of commission actions and

1 results under this subchapter.

2           SECTION 4. The Texas Commission on Environmental Quality  
3 shall adopt rules and establish procedures under Subchapter H,  
4 Chapter 386, Health and Safety Code, as added by this Act, as soon  
5 as practicable after the effective date of this Act.

6           SECTION 5. This Act takes effect September 1, 2025.