

Bill Number: TX81RHB 432

Date: 06-01-2009

ENROLLED

1 AN ACT
2 relating to the acquisition by state agencies of low-emissions
3 vehicles and vehicles using alternative fuels.

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

5 SECTION 1. Section 2158.001, Government Code, is amended to
6 read as follows:

7 Sec. 2158.001. DEFINITIONS [~~DEFINITION~~]. In this
8 subchapter:

9 (1) "Conventional [~~conventional~~] gasoline" means
10 any gasoline that does not meet specifications set by a
11 certification under Section 211(k) of the federal Clean Air Act (42
12 U.S.C. Section 7545(k)).

13 (2) "Golf cart" has the meaning assigned by Section
14 502.001, Transportation Code.

15 (3) "Light-duty motor vehicle" has the meaning
16 assigned by Section 386.151, Health and Safety Code.

17 (4) "Motor vehicle" has the meaning assigned by
18 Section 386.151, Health and Safety Code.

19 (5) "Neighborhood electric vehicle" means a motor
20 vehicle that:

21 (A) is originally manufactured to meet, and does
22 meet, the equipment requirements and safety standards established

23 [for "low-speed vehicles" in Federal Motor Vehicle Safety Standard](#)

24 [500 \(49 C.F.R. Section 571.500\);](#)

1

1 (B) is a slow-moving vehicle, as defined by
2 Section 547.001, Transportation Code, that is able to attain a
3 speed of more than 20 miles per hour but not more than 25 miles per
4 hour in one mile on a paved, level surface;

5 (C) is a four-wheeled motor vehicle;

6 (D) is powered by electricity or alternative
7 power sources;

8 (E) has a gross vehicle weight rating of less
9 than 3,000 pounds; and

10 (F) is not a golf cart.

11 (6) "Plug-in hybrid motor vehicle" means a vehicle
12 that:

13 (A) draws motive power from a battery with a
14 capacity of at least four kilowatt-hours;

15 (B) can be recharged from an external source of
16 electricity for motive power; and

17 (C) is a light-duty motor vehicle capable of
18 operating at highway speeds, excluding golf carts and neighborhood
19 electric vehicles.

20 SECTION 2. Subchapter A, Chapter 2158, Government Code, is
21 amended by adding Section 2158.0013 to read as follows:

22 Sec. 2158.0013. APPLICABILITY OF SUBCHAPTER. The
23 purchasing requirements relating to alternatively fueled vehicles
24 established by this subchapter do not apply if a state agency

25 [demonstrates that the state agency will incur net costs in meeting](#)

26 [the requirements of this subchapter.](#)

27 SECTION 3. Section 2158.003(a), Government Code, is amended

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1 to read as follows:

2 (a) A state agency may not purchase or lease a vehicle
3 designed or used primarily for the transportation of individuals,
4 including a station wagon, that has a wheelbase longer than 113
5 inches or that has more than 160 SAE net horsepower. The vehicle
6 may have a wheelbase of up to 116 inches or SAE net horsepower of up
7 to 280 if the vehicle will be converted so that it uses [~~is capable~~
8 ~~of using~~] compressed natural gas, liquefied natural gas, liquefied
9 petroleum gas, methanol or methanol/gasoline blends of 85 percent
10 or greater, ethanol or ethanol/gasoline blends of 85 percent or
11 greater, biodiesel or biodiesel/diesel blends of 20 percent or
12 greater, or electricity, including electricity to power a plug-in
13 hybrid motor vehicle. This exception to the wheelbase and
14 horsepower limitations applies to a state agency regardless of the
15 size of the agency's vehicle fleet.

16 SECTION 4. Sections 2158.004(a), (b), (c), and (d),
17 Government Code, are amended to read as follows:

18 (a) A state agency operating a fleet of more than 15
19 vehicles, excluding law enforcement and emergency vehicles, may not
20 purchase or lease a motor vehicle unless that vehicle uses [~~is~~
21 ~~capable of using~~] compressed natural gas, liquefied natural gas,
22 liquefied petroleum gas, methanol or methanol/gasoline blends of 85
23 percent or greater, ethanol or ethanol/gasoline blends of 85
24 percent or greater, biodiesel or biodiesel/diesel blends of 20

25 percent or greater, or electricity, including electricity to power

26 a plug-in hybrid motor vehicle.

27 (b) A state agency may obtain equipment or refueling

1 facilities necessary to operate vehicles using compressed natural
2 gas, liquefied natural gas, liquefied petroleum gas, methanol or
3 methanol/gasoline blends of 85 percent or greater, ethanol or
4 ethanol/gasoline blends of 85 percent or greater, [biodiesel or](#)
5 [biodiesel/diesel blends of 20 percent or greater](#), or electricity,
6 [including electricity to power a plug-in hybrid motor vehicle](#):

7 (1) by purchase or lease as authorized by law;

8 (2) by gift or loan of the equipment or facilities; or

9 (3) by gift or loan of the equipment or facilities or

10 by another arrangement under a service contract for the supply of
11 compressed natural gas, liquefied natural gas, liquefied petroleum
12 gas, methanol or methanol/gasoline blends of 85 percent or greater,
13 ethanol or ethanol/gasoline blends of 85 percent or greater,
14 [biodiesel or biodiesel/diesel blends of 20 percent or greater](#), or
15 electricity, [including electricity to power a plug-in hybrid motor](#)
16 [vehicle](#).

17 (c) If the equipment or facilities are donated, loaned, or
18 provided through another arrangement with the supplier of
19 compressed natural gas, liquefied natural gas, liquefied petroleum
20 gas, methanol or methanol/gasoline blends of 85 percent or greater,
21 ethanol or ethanol/gasoline blends of 85 percent or greater,
22 [biodiesel or biodiesel/diesel blends of 20 percent or greater](#), or
23 electricity, [including electricity to power a plug-in hybrid motor](#)
24 [vehicle](#), the supplier is entitled to recoup its actual cost of

- 25 donating, loaning, or providing the equipment or facilities through
26 its fuel charges under the supply contract.
- 27 (d) The commission may waive the requirements of this

1 section for a state agency on receipt of certification supported by
2 evidence acceptable to the commission that:

3 (1) the agency's vehicles will be operating primarily
4 in an area in which neither the agency nor a supplier has or can
5 reasonably be expected to establish adequate refueling for
6 compressed natural gas, liquefied natural gas, liquefied petroleum
7 gas, methanol or methanol/gasoline blends of 85 percent or greater,
8 ethanol or ethanol/gasoline blends of 85 percent or greater,
9 [biodiesel or biodiesel/diesel blends of 20 percent or greater](#), or
10 electricity, [including electricity to power a plug-in hybrid motor](#)
11 [vehicle](#); or

12 (2) the agency is unable to obtain equipment or
13 refueling facilities necessary to operate vehicles using
14 compressed natural gas, liquefied natural gas, liquefied petroleum
15 gas, methanol or methanol/gasoline blends of 85 percent or greater,
16 ethanol or ethanol/gasoline blends of 85 percent or greater,
17 [biodiesel or biodiesel/diesel blends of 20 percent or greater](#), or
18 electricity, [including electricity to power a plug-in hybrid motor](#)
19 [vehicle](#), at a projected cost that is reasonably expected to be no
20 greater than the net costs of continued use of conventional
21 gasoline or diesel fuels, measured over the expected useful life of
22 the equipment or facilities supplied.

23 SECTION 5. Sections 2158.005, 2158.006, 2158.007, and
24 2158.008, Government Code, are amended to read as follows:

25 Sec. 2158.005. PERCENTAGE REQUIREMENTS FOR VEHICLES

26 [~~CAPABLE OF~~] USING ALTERNATIVE FUELS[~~;- PROGRAM REVIEW~~]. (a) Not

27 later than September 30, 2010 [~~1, 1996~~], a state agency that

1 operates a fleet of more than 15 motor vehicles, excluding law
2 enforcement and emergency vehicles, shall have a fleet consisting
3 of vehicles of which at least 50 percent use ~~[are capable of using]~~
4 compressed natural gas, liquefied natural gas, liquefied petroleum
5 gas, methanol or methanol/gasoline blends of 85 percent or greater,
6 ethanol or ethanol/gasoline blends of 85 percent or greater,
7 biodiesel or biodiesel/diesel blends of 20 percent or greater, or
8 electricity, including electricity to power a plug-in hybrid motor
9 vehicle.

10 (b) ~~[The Texas Natural Resource Conservation Commission~~
11 ~~shall review the program established by this subchapter by December~~
12 ~~31, 1996. If the Texas Natural Resource Conservation Commission~~
13 ~~determines that the program has been effective in reducing total~~
14 ~~annual emissions from motor vehicles in the area, then after August~~
15 ~~31, 1998, a state agency operating a fleet of more than 15 motor~~
16 ~~vehicles shall have a fleet consisting of vehicles of which at least~~
17 ~~90 percent are capable of using compressed natural gas, liquefied~~
18 ~~natural gas, liquefied petroleum gas, methanol or~~
19 ~~methanol/gasoline blends of 85 percent or greater, ethanol or~~
20 ~~ethanol/gasoline blends of 85 percent or greater, or electricity.]~~

21 ~~(c)~~ The Texas Commission on Environmental Quality
22 ~~[commission]~~ shall collect ~~[support the Texas Natural Resource~~
23 ~~Conservation Commission in collecting]~~ reasonable information
24 needed to determine the air quality benefits from use of compressed

- 25 natural gas, liquefied natural gas, liquefied petroleum gas,
- 26 methanol or methanol/gasoline blends of 85 percent or greater,
- 27 ethanol or ethanol/gasoline blends of 85 percent or greater,

1 biodiesel or biodiesel/diesel blends of 20 percent or greater, or
2 electricity, including electricity to power a plug-in hybrid motor
3 vehicle, at affected agencies.

4 (c) ~~(e)~~ A state agency in its annual financial report to
5 the legislature shall report its progress in achieving the
6 percentage requirements of this section by ~~[itemizing]~~:

7 (1) itemizing purchases, leases, and conversions of
8 motor vehicles; ~~[and]~~

9 (2) itemizing usage of compressed natural gas,
10 liquefied natural gas, liquefied petroleum gas, methanol or
11 methanol/gasoline blends of 85 percent or greater, ethanol or
12 ethanol/gasoline blends of 85 percent or greater, biodiesel or
13 biodiesel/diesel blends of 20 percent or greater, or electricity,
14 including electricity to power a plug-in hybrid motor vehicle;

15 (3) describing the availability of compressed natural
16 gas, liquefied natural gas, liquefied petroleum gas, methanol or
17 methanol/gasoline blends of 85 percent or greater, ethanol or
18 ethanol/gasoline blends of 85 percent or greater, biodiesel or
19 biodiesel/diesel blends of 20 percent or greater, or electricity,
20 including electricity to power a plug-in hybrid motor vehicle; and

21 (4) providing the information reasonably needed to
22 determine the air quality benefits from use of compressed natural
23 gas, liquefied natural gas, liquefied petroleum gas, methanol or
24 methanol/gasoline blends of 85 percent or greater, ethanol or

- 25 [ethanol/gasoline blends of 85 percent or greater, biodiesel or](#)
- 26 [biodiesel/diesel blends of 20 percent or greater, or electricity,](#)
- 27 [including electricity to power a plug-in hybrid motor vehicle.](#)

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1 (d) [~~(e)~~] A state agency may meet the percentage
2 requirements of this section through purchase of new vehicles or
3 the conversion of existing vehicles, in accordance with federal and
4 state requirements and applicable safety laws. The Texas State
5 Technical College System shall develop a program and provide
6 training to a state agency converting an existing vehicle to meet
7 the requirements of this section.

8 (e) [~~(f)~~] The comptroller [~~commission~~] may reduce a
9 percentage specified by this section or waive the requirements of
10 this section for a state agency on receipt of certification
11 supported by evidence acceptable to the comptroller [~~commission~~]
12 that:

13 (1) the agency's vehicles will be operating primarily
14 in an area in which neither the agency nor a supplier has or can
15 reasonably be expected to establish adequate refueling for
16 compressed natural gas, liquefied natural gas, liquefied petroleum
17 gas, methanol or methanol/gasoline blends of 85 percent or greater,
18 ethanol or ethanol/gasoline blends of 85 percent or greater,
19 biodiesel or biodiesel/diesel blends of 20 percent or greater, or
20 electricity, including electricity to power a plug-in hybrid motor
21 vehicle; or

22 (2) the agency is unable to obtain equipment or
23 refueling facilities necessary to operate vehicles using
24 compressed natural gas, liquefied natural gas, liquefied petroleum

- 25 gas, methanol or methanol/gasoline blends of 85 percent or greater,
- 26 ethanol or ethanol/gasoline blends of 85 percent or greater,
- 27 [biodiesel or biodiesel/diesel blends of 20 percent or greater](#), or

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1 electricity, [including electricity to power a plug-in hybrid motor](#)
2 [vehicle](#), at a projected cost that is reasonably expected to be no
3 greater than the net costs of continued use of conventional
4 gasoline or diesel fuels, measured over the expected useful life of
5 the equipment or facilities supplied.

6 Sec. 2158.006. DETERMINATION OF ALTERNATIVE FUELS PROGRAM

7 PARAMETERS. In developing the use of compressed natural gas,
8 liquefied natural gas, liquefied petroleum gas, methanol or
9 methanol/gasoline blends of 85 percent or greater, ethanol or
10 ethanol/gasoline blends of 85 percent or greater, [biodiesel or](#)
11 [biodiesel/diesel blends of 20 percent or greater](#), or electricity,
12 [including electricity to power a plug-in hybrid motor vehicle](#), the
13 commission should work with state agency fleet operators, vehicle
14 manufacturers and converters, fuel distributors, and others to
15 determine the vehicles to be covered, taking into consideration:

- 16 (1) range;
- 17 (2) specialty uses;
- 18 (3) fuel availability;
- 19 (4) vehicle manufacturing and conversion capability;
- 20 (5) safety;
- 21 (6) resale values; and
- 22 (7) other relevant factors.

23 Sec. 2158.007. COMPLIANCE WITH APPLICABLE SAFETY

24 STANDARDS. In purchasing, leasing, maintaining, or converting

25 vehicles for use with compressed natural gas, liquefied natural
26 gas, liquefied petroleum gas, methanol or methanol/gasoline blends
27 of 85 percent or greater, ethanol or ethanol/gasoline blends of 85

1 percent or greater, biodiesel or biodiesel/diesel blends of 20
2 percent or greater, or electricity, including electricity to power
3 a plug-in hybrid motor vehicle, the commission shall comply with
4 all applicable safety standards adopted by the United States
5 Department of Transportation and the Railroad Commission of Texas.

6 Sec. 2158.008. WHEN VEHICLE CONSIDERED TO BE [~~CAPABLE OF~~]
7 USING ALTERNATIVE FUELS. In this subchapter, a vehicle is
8 considered to be [~~capable of~~] using compressed natural gas,
9 liquefied natural gas, liquefied petroleum gas, methanol or
10 methanol/gasoline blends of 85 percent or greater, ethanol or
11 ethanol/gasoline blends of 85 percent or greater, biodiesel or
12 biodiesel/diesel blends of 20 percent or greater, or electricity,
13 including electricity to power a plug-in hybrid motor vehicle, if
14 the vehicle uses [~~is capable of using~~] those fuels:

15 (1) not less than 80 percent of the time the vehicle is
16 driven; and

17 (2) either in its original equipment engine or in an
18 engine that has been converted to use those fuels.

19 SECTION 6. Section 2158.009, Government Code, is amended by
20 amending Subsection (b) and adding Subsection (d) to read as
21 follows:

22 (b) A state agency authorized to purchase passenger
23 vehicles or other ground transportation vehicles for general use
24 shall ensure that not less than 25 [~~10~~] percent of the vehicles the

- 25 agency [~~its vehicle~~] purchases during any state fiscal biennium,
- 26 other than vehicles the purchase of which is exempted from this
- 27 subsection by Subsection (c) or (d), are [~~purchases of~~] vehicles

1 that meet or exceed the emissions standards necessary to be rated by
2 the United States Environmental Protection Agency as a Tier II, Bin
3 3, emissions standard vehicle that has a greenhouse gas score of
4 eight under regulations of that agency as they existed September 1,
5 2007.

6 [\(d\) Subsection \(b\) does not apply to a state agency's](#)
7 [purchase of a vehicle to be used by a peace officer, as defined by](#)
8 [Article 2.12, Code of Criminal Procedure, whose duties include the](#)
9 [apprehension of persons for violation of a criminal law of this](#)
10 [state.](#)

11 SECTION 7. Section 2158.009(a), Government Code, is
12 **repealed.**

13 SECTION 8. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 432 was passed by the House on April 22, 2009, by the following vote: Yeas 140, Nays 6, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 432 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 432 on May 31, 2009, by the following vote: Yeas 109, Nays 36, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 432 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 432 on May 31, 2009, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor