

HOUSE BILL 532

P2

9lr2420

By: **Delegate Morhaim**

Introduced and read first time: February 5, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement Diesel Emissions Reduction Act**

3 FOR the purpose of requiring a unit to require that certain information regarding
4 diesel emissions control equipment be included in a bid for a certain State
5 contract; requiring certain State procurement contracts to include certain
6 clauses regarding diesel emissions control equipment; requiring the State to
7 reimburse a certain contractor a certain percentage of the cost of installing
8 certain diesel emissions control equipment on certain construction equipment
9 and vehicles; requiring that the reimbursement be paid from certain federal and
10 State funds; defining certain terms; and generally relating to the installation of
11 diesel emissions control equipment on construction equipment and vehicles used
12 to carry out State procurement contracts.

13 BY repealing and reenacting, with amendments,
14 Article – State Finance and Procurement
15 Section 13–205
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2008 Supplement)

18 BY adding to
19 Article – State Finance and Procurement
20 Section 13–218.2
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2008 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – State Finance and Procurement**

26 13–205.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) A unit:

(1) shall draft specifications to encourage maximum practicable competition without modifying the requirements of the State; and

(2) may not draft specifications to favor a single prospective bidder or offeror.

(b) A unit shall require a prospective bidder or offeror of supplies or construction to state in the bid or offer:

(1) whether the procurement will or may include recycled materials; and

(2) the types, amounts, and application of recycled materials that the bidder or offeror intends to include in the procurement.

(c) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(ii) "LEVEL 1 CONTROL" HAS THE MEANING STATED IN § 13-218.2 OF THIS SUBTITLE.

(iii) "LEVEL 2 CONTROL" HAS THE MEANING STATED IN § 13-218.2 OF THIS SUBTITLE.

(iv) "LEVEL 3 CONTROL" HAS THE MEANING STATED IN § 13-218.2 OF THIS SUBTITLE.

(2) A UNIT SHALL REQUIRE A PROSPECTIVE BIDDER ON A PROCUREMENT CONTRACT FOR CONSTRUCTION OVER \$2,000,000 TO STATE IN THE BID:

(i) THAT THE BIDDER RECOGNIZES THAT DIESEL NONROAD VEHICLES ON-SITE MORE THAN 3 DAYS DURING THE PROJECT ARE REQUIRED TO BE EQUIPPED WITH:

1. LEVEL 1 CONTROLS FOR PROJECTS TO BEGIN ON OR AFTER JANUARY 1, 2011;

2. FOR ENGINES WITH A RATING OF BETWEEN 25 AND 75 HORSEPOWER, LEVEL 2 CONTROLS FOR PROJECTS TO BEGIN ON OR AFTER JULY 1, 2014; AND

1 **3. FOR ENGINES WITH A RATING OF AT LEAST 75**
2 **HORSEPOWER, LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON OR AFTER**
3 **JULY 1, 2014;**

4 **(II) THAT THE BIDDER RECOGNIZES THAT HEAVY-DUTY**
5 **DIESEL VEHICLES AND DIESEL GENERATORS ON-SITE MORE THAN 3 DAYS**
6 **DURING THE PROJECT ARE REQUIRED TO BE EQUIPPED WITH:**

7 **1. A MINIMUM OF LEVEL 1 CONTROLS FOR**
8 **PROJECTS TO BEGIN ON OR AFTER JANUARY 1, 2011; AND**

9 **2. LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON**
10 **OR AFTER JULY 1, 2011;**

11 **(III) WHETHER THE VEHICLES ARE CURRENTLY EQUIPPED**
12 **WITH THE REQUIRED CONTROLS; AND**

13 **(IV) IF THE VEHICLES ARE NOT CURRENTLY EQUIPPED WITH**
14 **THE REQUIRED CONTROLS, THE COST OF INSTALLING THE REQUIRED**
15 **CONTROLS.**

16 **13-218.2.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
18 **MEANINGS INDICATED.**

19 **(2) “LEVEL 1 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
20 **CONTROL DEVICE THAT ACHIEVES A PARTICULATE MATTER EMISSION**
21 **REDUCTION OF 25% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
22 **LEVELS.**

23 **(3) “LEVEL 2 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
24 **CONTROL DEVICE THAT ACHIEVES A PARTICULATE MATTER EMISSION**
25 **REDUCTION OF 50% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
26 **LEVELS.**

27 **(4) “LEVEL 3 CONTROL” MEANS A VERIFIED DIESEL EMISSION**
28 **CONTROL DEVICE THAT:**

29 **(I) ACHIEVES A PARTICULATE MATTER EMISSION**
30 **REDUCTION OF 85% OR MORE FROM UNCONTROLLED ENGINE EMISSION**
31 **LEVELS; OR**

1 (II) REDUCES EMISSIONS TO LESS THAN OR EQUAL TO 0.01
2 GRAMS OF PARTICULATE MATTER PER BRAKE HORSEPOWER-HOUR.

3 (5) "VERIFIED DIESEL EMISSION CONTROL DEVICE" MEANS:

4 (I) AN EMISSION CONTROL DEVICE OR STRATEGY THAT HAS
5 BEEN VERIFIED TO ACHIEVE A SPECIFIED DIESEL PARTICULATE MATTER
6 REDUCTION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
7 OR THE CALIFORNIA AIR RESOURCES BOARD; OR

8 (II) REPLACEMENT OR REPOWERING WITH AN ENGINE THAT
9 IS CERTIFIED TO SPECIFIC PARTICULATE MATTER EMISSIONS PERFORMANCE
10 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THE
11 CALIFORNIA AIR RESOURCES BOARD.

12 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH
13 PROCUREMENT CONTRACT FOR CONSTRUCTION OVER \$2,000,000 SHALL
14 INCLUDE CLAUSES THAT:

15 (1) REQUIRE:

16 (I) DIESEL NONROAD VEHICLES ON-SITE MORE THAN 3
17 DAYS DURING THE PROJECT TO BE EQUIPPED WITH:

18 1. LEVEL 1 CONTROLS FOR PROJECTS TO BEGIN ON
19 OR AFTER JANUARY 1, 2011;

20 2. LEVEL 2 CONTROLS FOR PROJECTS TO BEGIN ON
21 OR AFTER JULY 1, 2014, FOR ENGINES WITH A RATING OF BETWEEN 25 AND 75
22 HORSEPOWER; AND

23 3. LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON
24 OR AFTER JULY 1, 2014, FOR ENGINES WITH A RATING OF AT LEAST 75
25 HORSEPOWER;

26 (II) HEAVY-DUTY DIESEL VEHICLES AND DIESEL
27 GENERATORS ON-SITE MORE THAN 3 DAYS DURING THE PROJECT TO BE
28 EQUIPPED WITH:

29 1. A MINIMUM OF LEVEL 1 CONTROLS FOR
30 PROJECTS TO BEGIN ON OR AFTER JANUARY 1, 2011; AND

31 2. LEVEL 3 CONTROLS FOR PROJECTS TO BEGIN ON
32 OR AFTER JULY 1, 2011; AND

1 (III) THE CONTRACTOR TO HAVE THE HIGHEST LEVEL OF
2 CONTROLS AVAILABLE IF THE DEPARTMENT OF THE ENVIRONMENT MAKES A
3 WRITTEN FINDING THAT THE REQUIRED LEVEL OF CONTROL IS NOT AVAILABLE;
4 AND

5 (2) PROHIBIT:

6 (I) THE VENTING OF CRANKCASE EMISSIONS FROM DIESEL
7 NONROAD VEHICLES AND HEAVY-DUTY DIESEL VEHICLES; AND

8 (II) THE NONESSENTIAL IDLING OF DIESEL NONROAD AND
9 HEAVY-DUTY DIESEL VEHICLES; AND

10 (3) PROVIDE FOR REIMBURSEMENT BY THE STATE OF 50% OF
11 THE COST OF INSTALLING THE CONTROLS REQUIRED BY ITEM (1) OF THIS
12 SUBSECTION IF THE CONTRACTOR HAS NOT RECEIVED THE 50%
13 REIMBURSEMENT FOR INSTALLATION OF CONTROLS ON THE PIECE OF
14 EQUIPMENT ON A PRIOR CONTRACT.

15 (C) TO PROVIDE THE REIMBURSEMENT REQUIRED UNDER SUBSECTION
16 (B)(3) OF THIS SECTION, THE STATE SHALL USE:

17 (1) FEDERAL CONGESTION MITIGATION AND AIR QUALITY
18 FUNDS;

19 (2) FEDERAL DIESEL EMISSIONS REDUCTION ACT OF 2005
20 FUNDS;

21 (3) ANY OTHER AVAILABLE FEDERAL FUNDS; AND

22 (4) ANY APPROPRIATED STATE FUNDS.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2009.