

Regular Session, 2008

ACT No. 588

HOUSE BILL NO. 539

BY REPRESENTATIVE LAMBERT

1 AN ACT

2 To amend and reenact R.S. 30:2066(B) and to enact R.S. 30:2066(D), relative to fees paid
3 in severe and extreme ozone nonattainment zones; to provide for fees to be paid with
4 respect to the one-hour ozone national ambient air quality standard; to require the
5 Department of Environmental Quality to adopt rules and regulations in response to
6 certain actions by congress, the Environmental Protection Agency, or a court; and
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 30:2066(B) is hereby amended and reenacted and R.S. 30:2066(D)
10 is hereby enacted to read as follows:

11 §2066. Fees; severe and extreme ozone nonattainment areas

12 * * *

13 B. In accordance with the provisions of Article VII, Section 2.1 of the
14 ~~Louisiana Constitution~~ Constitution of Louisiana, the Department of Environmental
15 Quality is authorized to adopt, promulgate, implement, and collect a fee, in addition
16 to any other fee, to be paid by major stationary sources of VOC and NOx emissions
17 located in severe or extreme ozone nonattainment areas that have failed to attain the
18 one-hour national primary ambient air quality standard for ozone by the year 2005.
19 The fee shall ~~equal~~ be no more than five thousand dollars or an amount determined
20 by the department to be consistent with applicable federal requirements, whichever
21 is less, plus annual adjustment, per ton of VOC and NOx emitted in excess of eighty
22 percent of the baseline amount by the source during the ~~calendar~~ calendar year. The

1 fee shall be paid for each ~~calendar~~ calendar year beginning after 2005, ~~unless~~ for
 2 which a fee is to be collected pursuant to this Section, until the area is classified as
 3 an attainment area for the one-hour national primary ambient air quality standard for
 4 ozone or ~~until~~ such fee is no longer required by Section 185 of the Clean Air Act
 5 Amendments of 1990 (42 U.S.C. 7511~~(d)~~d). To the extent consistent with applicable
 6 federal requirements, when imposing the fee authorized by this Section, the
 7 department may use such baseline or baselines as the department deems necessary
 8 and appropriate.

9 * * *

10 D. Notwithstanding any provision in this Section to the contrary, to the
 11 extent that the United States Congress, the United States Environmental Protection
 12 Agency, or a court with appropriate jurisdiction takes action that eliminates, reduces,
 13 or otherwise modifies the fee required by Section 185 of the Clean Air Act
 14 Amendments of 1990 (42 U.S.C. 7511d) or the manner in which such fee is
 15 implemented or collected, the department shall take such actions as appropriate to
 16 immediately adopt, promulgate, and implement such regulations as necessary to
 17 ensure that a minimum of such fee is collected pursuant to this Section but not
 18 greater than five thousand dollars per ton as required by Section 185 of the Clean Air
 19 Act Amendments of 1990 (42 U.S.C. 7511d) or any new federal statute or binding
 20 federal requirement on the same subject. To the extent applicable judicial decisions
 21 or federal laws, regulations, policies, guidance, or directives provide flexibility or
 22 alternatives with respect to the imposition of the fee required by Section 185 of the
 23 Clean Air Act Amendments of 1990 (42 U.S.C. 7511d), the department may adopt,
 24 promulgate, and implement such regulations and take such other actions as consistent
 25 therewith, including modifying the manner in which the fee authorized by this
 26 Section is implemented and collected, otherwise ameliorating the impact of such fee
 27 or imposing alternative requirements in lieu of, or in addition to, such fee.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____