

2010 -- S 2440 SUBSTITUTE A AS AMENDED

LC01494/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

**RELATING TO MOTOR AND OTHER VEHICLES -- THE DIESEL EMISSION
REDUCTION ACT**

Introduced By: Senators Miller, Sosnowski, Maher, Ruggerio, and Connors

Date Introduced: February 11, 2010

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 31-47.3 of the General Laws entitled "The Diesel Emissions
2 Reduction Act" is hereby amended by adding thereto the following sections:

3 **31-47.3-1.1. Purpose.** – This act shall be known and may be cited as "An Act
4 Concerning Government Responsibility To Protect Public Health From Diesel Pollution."

5 The general purposes of this act are to:

6 (1) Minimize human exposure to and health risks from diesel pollution;

7 (2) Reduce health costs, missed school days, lost worker productivity and premature
8 mortality linked to exposure to the diesel particulate matter (PM) and other diesel pollutants;

9 (3) Achieve maximum feasible diesel particulate matter emissions reductions and
10 diminished human exposure that is additional to the impact of federal diesel emission rules,
11 which focus mostly on new engines;

12 (4) Advance the state's climate protection goals and climate action plan by reducing the
13 amount of black carbon pollution emitted by diesels; and

14 (5) Achieve health benefits for Rhode Island by ensuring state contracting and leasing
15 takes advantage of retrofits that are occurring in the marketplace.

16 **31-47.3-4. Emission reduction strategies in new public works contracts.** -- Effective
17 upon passage of this legislation, any solicitation for a public works contract with the state, and
18 any contract entered into as a result of such solicitation, shall include provisions requiring all

1 heavy duty vehicles used in the performance of such contract to adhere to the following
2 requirements:

3 (1) Contractors shall establish staging zones, provided that such space is available at no
4 extra cost, for diesel vehicles away from the general public or sensitive receptors, including, but
5 not limited to, hospitals, schools, and residential neighborhoods, to minimize the impact of
6 emissions from idling vehicles.

7 (2) Idling of diesel engines shall be limited to no more than five (5) minutes, except in
8 cases where the engine must idle to perform normal operations, as with a cement truck.

9 (3) Onroad and nonroad heavy-duty diesel vehicles, including generators, shall use only
10 ultra-low sulfur diesel fuel.

11 **31-47.3-5. Use of emission control technology in new public works contracts.** – (a)
12 Effective upon passage of this legislation, the department of transportation (DOT) shall
13 implement contract requirements specified in subsection (b) on at least one project to be out to
14 bid no later than September 30, 2010. Performance of the project, if deemed practicable by the
15 director of DOT, must be started no later than six (6) months after the project bid has been
16 awarded. DOT shall provide a summary report of the results of the project, implementation of
17 these provisions and any recommendations to the governor and the general assembly no later than
18 sixty (60) days after project completion. In selecting the project, the DOT shall prioritize
19 otherwise eligible projects that:

20 (1) Each have a total individual budget of no less than six million dollars (\$6,000,000);

21 (2) Serve areas in Rhode Island:

22 (i) With highest population density; and/or

23 (ii) Exposed to a disproportionate amount of air pollution from diesel fleets.

24 (b)Beginning January 1, 2013, any solicitation for a public works contract or contracts
25 with the state funded in whole or in part by federal monies and having a total project cost of at
26 least five million dollars (\$5,000,000), and any contract entered into as a result of such
27 solicitation, shall include provisions requiring all heavy duty vehicles used in the performance of
28 such contract to adhere to the following requirements:

29 (1) Subject to the provisions of subdivisions (2) through (4), onroad and nonroad heavy-
30 duty diesel vehicles, including generators, shall be powered by engines with properly operating
31 and maintained Level 3 controls. Provided, however, that if the department of environmental
32 management (DEM) finds that no Level 3 verified emission control devices have been verified
33 and are otherwise appropriate for use on particular engines, Level 2 verified devices shall be
34 required; if neither Level 3 nor Level 2 devices have been verified and are otherwise appropriate

1 for use on particular engines, Level 1 verified devices shall be required; and

2 (2)The emission control technology requirements of subdivision (1) shall not apply to:

3 (i) Vehicles and equipment dedicated for snow removal;

4 (ii) Farm equipment;

5 (iii)Vehicles that are specially equipped and used for emergency response and vehicles

6 that are used during a declared state of emergency and for the life of the project associated with

7 the state of emergency;

8 (iv) Vehicles that are used to deliver equipment or material to and from the project site;

9 (v) Standby generators; and

10 (vi) Vehicles used on the project for less than thirty (30) total work days over the life of

11 the project; and

12 (3) Unregulated, or pre-Tier 1 diesel engines are exempt from the requirements in

13 subdivision (1). No later than December 1, 2011, DEM shall initiate a stakeholder process to

14 determine how to reduce particulate emissions from unregulated, or pre-Tier 1 diesel engines, and

15 how to create a statewide inventory of heavy duty diesel vehicles and how this inventory is

16 published. The stakeholder process shall include representatives from industries that utilize pre-

17 Tier 1 diesel engines. DEM shall report findings and recommendations from the stakeholder

18 process to the governor and the general assembly no later than July 1, 2012; and

19 (4) Emission controls shall be required only to the extent of available reimbursement

20 from project funds covering the equipment purchase and installation labor costs of the controls,

21 provided that at least one percent (1%) of the total of each project budget shall be dedicated for

22 such reimbursement.

23 (i) Funds shall be generally allocated to pay for the most cost-effective emission controls

24 in terms of particulate pollution reduction per dollar spent.

25 (ii) Dedicated funds, subject to this subdivision (4), remaining after all eligible vehicles

26 and equipment have been retrofit and reimbursement to contractors has been rendered subject to

27 the provisions of this statute, may be considered part of the overall project budget as determined

28 by the state.

29 (c) Implementation. The requirements of subsections (a) and (b) shall be implemented as

30 specified by the state, and shall include the following:

31 (1) A blind bidding process;

32 (2) When project bids are awarded, the state shall notify the contractor in writing of the

33 total budget for retrofits according to the provisions of subdivision (b)(4);

34 (3) Contractors must select vehicles and equipment to be retrofitted according to the

1 requirements of subsection (b) within the budget specified by the state. Contractors shall give
2 priority to retrofitting vehicles and equipment that:

- 3 (i) Will likely spend the most time operating on the project;
- 4 (ii) Will disproportionately expose the surrounding community and sensitive receptors
5 including, but not limited to, hospitals, schools and residential neighborhoods to diesel pollution;
6 and
- 7 (iii) Are most cost-effective in terms of emission controls for particulate pollution
8 reduction per dollar spent.

9 (4) Construction shall not proceed until the contractor submits an equipment list of all
10 heavy-duty vehicles to be used on site, in the format specified by the department of
11 environmental management, including the following:

- 12 (i) Contractor and subcontractor names and addresses, plus contact person responsible for
13 the vehicles and or equipment; and
- 14 (ii) Documentation, including the technology type, EPA/CARB verification
15 number/control Level, manufacturer, make, model, serial number of the retrofit device; the date
16 the retrofit was installed; or in the case of a delayed shipment for retrofit parts and/or equipment,
17 proof of purchase and the expected ship date from the manufacturer, for the retrofitted vehicles to
18 be used on the project; and

19 (5) Equipment, as further defined in subdivisions (c)(3) and (4), not meeting the
20 requirements of this section shall not be used on the project site; provided, however, that

- 21 (i) If the contractor can provide documentation demonstrating that a retrofit was ordered
22 for noncompliant equipment, but not arrived yet, and that the failure to retrofit in a timely manner
23 was caused by circumstances beyond the contractor's control, the noncompliant equipment may
24 begin work on the project and operate on site for a maximum thirty (30) total work days or for
25 additional time if authorized by the procuring agency.

- 26 (ii) If the contractor subsequently needs to bring on site equipment not on the equipment
27 list specified in subdivision (4), the contractor shall submit written notification within forty-eight
28 (48) hours to the procuring agency and the additional equipment shall be used on the project site
29 for no more than thirty (30) total work days or for additional time if authorized by the procuring
30 agency; provided that noncompliant equipment shall not be authorized for use more than three
31 times during the life of the project.

32 (d) Reporting.

- 33 (1) The contractor shall submit monthly summary reports to the project manager,
34 updating the equipment list, including diesel fuel use for the reporting time period for all

1 equipment used in the performance of the contract. The addition or deletion of any equipment
2 shall be included in the summary and noted in the monthly report.

3 (2) By December 1, 2013, and December 1 of each subsequent year through 2015, the
4 state shall submit contractors' monthly summary reports, along with all inventory lists and
5 equipment lists to DEM in the form requested.

6 (3) By February 1, 2013, and February 1 of each subsequent year through 2015, DEM
7 shall create and submit a summary report to the legislature. The report will be made accessible to
8 the public by posting on the DEM website.

9 (4) The report submitted by February 1, 2013 shall include:

10 (i) A description of the state's implementation of the new contract requirements;

11 (ii) An estimate of the resulting diesel emission reductions;

12 (iii) An estimate of the total population of heavy-duty diesel vehicles and equipment in
13 the state;

14 (iv) An estimate of the total population of retrofitted heavy-duty diesel vehicles and
15 equipment in the state;

16 (v) A description of other appropriate measures of progress;

17 (vi) A description of problems encountered and opportunities for additional reductions in
18 diesel emissions; and

19 (vii) Recommendations for any statutory changes including but not limited to:

20 (A) The appropriate emissions control technology for specific vehicle groups;

21 (B) The types of projects that shall require emissions controls;

22 (C) The appropriate funding mechanism for continued implementation of the program;

23 (D) The reporting requirements necessary to track and number heavy duty vehicles in
24 use, and the number of retrofits that are achieved under the program, and

25 (E) The appropriate enforcing agent for the program.

26 (5) DEM shall provide written notice and opportunity for a public meeting and comment
27 on the draft of the report due February 1, 2013.

28 (e) DEM, DOT and other state agencies may promulgate regulations regarding the
29 solicitation, bidding and awarding of public works projects as defined in subdivisions 31-47.3-
30 5(b)(1), (b)(2), (c)(4), and (d)(1) and regarding enforcement as defined in 31-47.3-6, provided
31 that the scope of the rulemaking authority granted hereunder shall be narrowly construed. No
32 rule promulgated hereunder shall expand the scope of or impose more stringent limitations than
33 those expressly set forth in this act.

34 (f) Funding.

1 (1) All costs associated with the purchase and installation by a contractor of the emission
2 control technologies for a specific project in order to comply with the contract provisions required
3 by subsections (a) and (b) shall be fully reimbursed from project funds within sixty (60) days of
4 the technology installation; provided that the compliant control technology is installed within
5 thirty (30) work days after the applicable vehicle is brought onto the project site unless it meets
6 the requirements provided in subdivision (c)(5).

7 (2) Retrofits installed with funds from the project shall remain on the heavy-duty diesel
8 vehicle for the useful life of the emission control device or the vehicle or in the event the vehicle
9 is sold out-of-state the retrofit technology may be removed at the contractor's expense and used
10 on a piece of equipment that performs work within Rhode Island no later than one year from the
11 date it was removed from the original equipment.

12 (g) Public education. Any project that is subject to public hearing requirements shall
13 include at a minimum an overview of the diesel abatement strategies for the project as part of the
14 public hearing presentation.

15 **31-47.3-6. Enforcement.** -- (a) Enforcement. The state shall include enforcement
16 provisions in each contract subject to the provisions of section 31-47.3-4 and 31-47.3-5, which
17 shall include, authorization for the state to conduct random inspections of contractor's equipment
18 and records to ensure compliance provided that for the purpose of inspecting heavy duty vehicles
19 and their records to determine compliance with these regulations, an agent or employee of DEM,
20 upon presentation of proper credentials, shall have the right to enter any project location (with
21 necessary safety clearances) where the designated vehicles are located or kept.

22 (b) After January 1, 2013 any person who fails to submit any information, report, or
23 statement required by this regulation, or who knowingly submits any false statement or
24 representation in any application, report, statement, or other document filed, maintained or used
25 for the purposes of compliance with this regulation may be subject to administrative penalties.
26 Administrative penalties shall be assessed by the department of environmental management in
27 accordance with section 42-17.6. In assessing penalties, DEM will consider factors, including, but
28 not limited to, the willfulness of the violation, the length of time of noncompliance, whether the
29 fleet made an attempt to comply, and the magnitude of noncompliance.

30 **31-47.3-7. Severability.** -- If any clause, sentence, paragraph, section or part of this act
31 shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all
32 further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof,
33 but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act
34 directly involved in the controversy in which the judgment shall have been rendered.

1 SECTION 2. Sections 31-47.3-2 and 31-47.3-3 of the General Laws in Chapter 31-47.3
2 entitled "The Diesel Emissions Reduction Act" are hereby amended to read as follows:

3 **31-47.3-2. Definitions.** -- When used in this chapter:

4 (1) "Best available retrofit technology" means technology, verified by the United States
5 Environmental Protection Agency or California Air Resources Board (CARB) for achieving
6 reductions in particulate matter emissions at the highest classification level for diesel emission
7 control strategies that is applicable to the particular engine and application. Such technology shall
8 not result in a net increase in nitrogen oxides.

9 (2) "Heavy duty vehicle" or "vehicle" means any on-road or non-road vehicle powered by
10 diesel fuel and having a gross vehicle weight of greater than fourteen thousand (14,000) pounds,
11 or in the case of a nonroad vehicle, powered by diesel fuel and an engine with a rating of at least
12 seventy-five (75) horsepower, including, but not limited to, non-stationary generators.

13 (3) "DEM" means the Rhode Island department of environmental management.

14 (4) "Director" means the director of DEM.

15 (5) "DOT" means the Rhode Island department of transportation.

16 (6) "Level 1 control" means a verified diesel emission control device that achieves a
17 particulate matter (PM) reduction of twenty-five percent (25%) or more compared to
18 uncontrolled
19 engine emissions levels.

20 (7) "Level 2 control" means a verified diesel emission control device that achieves a
21 particulate matter (PM) emission reduction of fifty percent (50%) or more compared to
22 uncontrolled engine emission levels.

23 (8) "Level 3 control" means a verified diesel emission control device that achieves a
24 particulate matter (PM) emission reduction of eighty-five percent (85%) or more
25 compared to uncontrolled engine emission levels, or that reduces emissions to less than or equal
26 to one one-hundredth (0.01) grams of (PM) per brake horsepower-hour. Level 3 control includes
27 repowering or replacing the existing diesel engine with an engine meeting US EPA's 2007
28 Heavy-duty Highway Diesel Standards, published in the federal register at 66 Fed. Reg. 5001
29 (January 18, 2001), or in the case of a nonroad engine, an engine meeting the US EPA's Tier 4
30 Nonroad Diesel Standards, published in the federal register at 69 Fed. Reg. 38957 (June 19,
31 2004).

32 (9) "Closed crankcase ventilation system (CCV)" means a system that separates oil and
33 other contaminant from the blow-by gases and routes the blow-by gases into a diesel engine's
34 intake system downstream of air filter.

1 (10) "Full-sized school bus" means a school bus, as defined in (Rhode Island general law)
2 section (31-1-3), which is a type 1 diesel school bus, including spare buses operated by or under
3 contract to a school district, but not including emergency contingency vehicles or low usage
4 vehicles.

5 (11) "Verified emissions control device" means a device that has been verified by the
6 federal Environmental Protection Agency or the California Air Resources Board to reduce
7 particulate matter emissions by a given amount.

8 (12) "Ultra low sulfur diesel fuel" means diesel fuel having sulfur content of fifteen parts
9 per million (15ppm) of sulfur or less, as defined by the U.S. Environmental Protection Agency at
10 40 CFR section 80.520.

11 (13) "State agency" means each state board, commission, department, or officer, other
12 than quasi-public corporations, the legislature or the courts, authorized by law to make rules or to
13 determine contested cases.

14 (14) "Public works contract" means a contract with a state agency for a construction
15 program or project involving the construction, demolition, restoration, rehabilitation, repair,
16 renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; a
17 contract with a state agency regarding the preparation for any construction program or project
18 involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement
19 of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract with a state
20 agency for any final work involved in the completion of any construction program or project
21 involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement
22 of any building, structure, tunnel, excavation, roadway, park or bridge.

23 (15) "Contractor" means any person contracting directly or indirectly with the state to
24 provide labor, services, materials and/or equipment for the performance of a public works
25 contract. Contractor includes a prime contractor, subcontractor, and any contractor(s) hired by
26 such subcontractor.

27 (16) "CMAQ" means the federal congestion mitigation and air quality improvement
28 program, reauthorized by congress in 2005 by Sections 1101, 1103 and 1808 of the safe,
29 accountable, flexible, efficient transportation equity act: a legacy for users (SAFETEA-LU)
30 (Pub.L. 109-59, Aug. 10, 2005). SAFETEA-LU requires states and metropolitan planning
31 organizations to give priority in distributing CMAQ funds for diesel engine retrofit projects, as
32 well as other cost-effective emission reduction and congestion mitigation activities that benefit air
33 quality.

34 (17) "DERA" means the federal diesel emission reduction act, enacted by congress as

1 sections 791 through 797 of the energy policy Act of 2005 (Pub. L. 109–58, Aug. 8, 2005).

2 (18) “Fleet owner” means a person, business or the state that owns ten (10) or more
3 heavy duty vehicles” operating in Rhode Island. Included in the total are related businesses
4 owned and operated by a person, business or state.

5 (19) “Inventory list” means a list of all equipment owned, rented, or leased by a
6 contractor.

7 (20) “Equipment list” means a list of all equipment owned, rented, or leased to be used on
8 site.

9 (21) The “state” shall mean “state agencies or when related to “contractors” in this
10 statute, the “state” shall mean the procuring agency or procuring agent.

11 **31-47.3-3. Reducing emissions from school buses.** – (a) *Purpose.* To reduce health
12 risks from diesel particulate matter (DPM) to Rhode Island school children by significantly
13 reducing tailpipe emissions from school buses, and preventing engine emissions from entering the
14 passenger cabin of the buses.

15 (b) Requirements for Rhode Island school buses:

16 (i) By September 1, 2010, no full-size school bus with an engine model year 1993 or
17 older may be used to transport school children in Rhode Island; and,

18 (ii) By September 1, 2010 any new bus added to current bus fleets or after September 1,
19 2010 whenever a new contract is entered into by a city, town, school district or the state all busses
20 included in that contract shall be equipped with a closed crankcase ventilation system and either:
21 (A) Shall be equipped with a Level 1, Level 2, or Level 3 device verified by the US
22 Environmental Protection Agency or the California Air Resources Board; or (B) Shall be
23 equipped with an engine of model year 2007 or newer; or (C) Shall achieve the same or higher
24 diesel PM reductions through the use of alternative fuel such as compressed natural gas verified
25 by CARB/EPA to reduce DPM emissions at a level equivalent to or higher than subparagraph
26 (b)(ii)(B) above; and,

27 ~~(iii)~~ (iii) Providing there is sufficient federal or state monies, by September 1, ~~2010~~2012,
28 all full-sized school buses transporting children in Rhode Island must be retrofitted with a closed
29 crankcase ventilation system and either: (A) be equipped with a level 1, level 2, or level 3 device
30 verified by the US Environmental Protection Agency or the California Air Resources Board; or
31 (B) be equipped with an engine of model year 2007 or newer; or (C) achieve the same or higher
32 diesel PM reductions through the use of an alternative fuel such as compressed natural gas
33 verified by CARB/EPA to reduce DPM emissions at a level equivalent to or higher than
34 ~~subsection~~ subparagraph (b)(iii)(B) above.

1 (c) Financial assistance to defray costs of pollution reductions called for in (b)(ii):

2 (i) ~~DEM~~ The director shall work with the Rhode Island department of transportation or
3 other authorized ~~transit~~ agencies to maximize the allocation of federal grants and loan monies
4 provided for Rhode Island pursuant to the congestion mitigation and air quality improvement
5 program (CMAQ) for ~~congestion mitigation and air quality (CMAQ) money for Rhode Island for~~
6 diesel emissions reductions in federal FY 2008 and thereafter until the retrofit goals in this act are
7 met. ~~The (CMAQ) program is jointly administered by the federal highway administration~~
8 ~~(FHWA) and the federal transit administration (FTA), and was reauthorized by congress in 2005~~
9 ~~under the safe, accountable, flexible, and efficient transportation equity act: A legacy for users~~
10 ~~(SAFETEA LU). The (SAFETEA LU) requires states and MPOs to give priority in distributing~~
11 ~~CMAQ funds to diesel engine retrofits, and other cost effective emission reduction and~~
12 ~~congestion mitigation activities that benefit air quality.~~

13 (ii) Drawing upon any available federal or state monies, the director shall establish and
14 implement a system of providing ~~incentives~~ reimbursements consistent with this section to
15 municipalities, vendors, or school bus owners for the purchase and installation of any
16 CARB/EPA-verified emission control retrofit device together with the purchase and installation
17 of closed crankcase ventilation system (CCV) retrofit device. ~~In 2007, the per unit incentive shall~~
18 ~~not exceed one thousand two hundred fifty dollars (\$1,250) for a level 1 device plus a CCV, or~~
19 ~~two thousand five hundred dollars (\$2,500) for a level 2 device plus a CCV, or for model years~~
20 ~~2003-2006 five thousand dollars (\$5,000) for a level 3 device plus a CCV. Incentive levels may~~
21 ~~be reevaluated annually, with the goal of maintaining competition in the market for retrofit~~
22 ~~devices.~~ To the extent practicable, in kind services will also be utilized to offset some of the costs.
23 Reimbursement recipients must also certify that newly purchased or retrofitted buses with a level
24 3 technology will operate in the state of Rhode Island for a minimum of four (4) years unless the
25 bus fleet owner's contract with the school district or state has expired.

26 (d) Priority community provision:

27 (i) When ~~penalty funds, state SEP funds,~~ federal funds or funds from ~~other~~ state or ~~non-~~
28 ~~state~~ other sources become available, ~~these should first be allocated toward further offsetting~~
29 ~~costs of achieving "best available" emissions control in "priority communities";~~ for use under
30 subsection (c), these shall be allocated by the director, to the extent practicable, as follows: (A)
31 First, for control of emissions from school buses operating primarily in urban core or urban ring
32 cities. Buses operating primarily in urban core or urban ring cities must be retrofitted to the best
33 available standard as defined in paragraph (d)(iii); (B) Next, for control of emissions from buses
34 not operating primarily in urban core or urban ring cities. (C) Lastly, for buses operating

1 primarily in urban core or urban ring cities already retrofitted with a level 1, level 2, or level 3
2 and/or crankcase ventilator device but that do not meet the best available standard as defined in
3 paragraph (d)(iii). Buses already meeting the best available standard as defined in paragraph
4 (d)(iii) will not be considered for this retrofitting program and municipalities, vendors, or school
5 bus owners owning equipment retrofitted either prior to the implementation of this retrofit
6 program or through another retrofit program with a level 1, level 2, level 3 and/or crankcase
7 ventilator device will not be reimbursed as outlined in paragraph (c)(ii).

8 (ii) Fleet owners currently holding contracts with Rhode Island school districts, and
9 Rhode Island school districts owning their own fleets must comply with the retrofitted
10 prioritization scheme as determined by the director and work with DEM to ensure that (A) By
11 September 1, 2012 all buses are retrofit as outlined in paragraph (b)(iii); and (B) By September 1,
12 2010 no new bus may be added to their current fleets unless they meet standards outlined in
13 paragraph (b)(ii).

14 (ii)(iii) The "best available" standard is attained by all new buses (engine MY2007 and
15 newer) ~~and~~; by diesel buses engine model year 2003 to 2006, inclusive, that ~~has~~ have been
16 retrofitted with level 3-verified diesel particulate filters and closed crankcase ventilation systems;
17 provided, however, that if DEM finds that the cost of a level 3 verified diesel particulate filter is
18 not reasonable or otherwise not appropriate for use on a particular engine, the standard shall be at
19 least a level 1 verified diesel emission control device and closed crankcase ventilation system; by
20 diesel buses engine model year 1994 to 2002, inclusive, that has been retrofitted with at least
21 level 2-verified diesel ~~particulate filters~~ emission control devices and closed crankcase
22 ventilation systems ~~or could be achieved with a natural gas~~; and by natural gas buses that achieve
23 the same or better emissions standards as a 2007 engine model year diesel bus. ~~bus that achieves~~
24 ~~the same or better standards of cleanliness as a 2007 diesel bus standard; and~~

25 (iii)(iv) ~~"Priority communities"~~ "Urban core cities" ~~(to be identified by the Rhode~~
26 Island DEM) means Central Falls, Newport, Providence, Pawtucket, and Woonsocket ~~are Rhode~~
27 Island communities that have high levels of ambient air pollution and high incidence of childhood
28 respiratory impacts.

29 (v) "Urban ring cities" means North Providence, East Providence, West Warwick,
30 Cranston, and Warwick.

31 (e) To achieve the pressing public health and environmental goals of this act, DEM shall
32 identify opportunities to achieve maximize PM reductions from diesel powered heavy duty
33 vehicle or equipment that is owned by, operated by, or on behalf of, or leased by, or operating
34 under a ~~contract~~ contract to a state agency or state or regional public authority (except vehicles

1 that are specifically equipped for emergency response) and diesel powered waste collection and
2 recycling vehicles that are owned, leased, or contracted to perform the removal or transfer or
3 municipal, commercial or residential waste, or recycling services. No later than January 1, 2008,
4 DEM shall present a report to the general assembly, governor, house committee on environment
5 and natural resources, and the senate committee on environment and agriculture on such
6 opportunities to maximum PM reductions from the aforementioned fleets including legislative
7 changes, regulatory changes, funding sources, contract requirements, procurement requirements,
8 and other mechanisms that will bring about maximum PM reductions from these two priority
9 fleets. This report shall explore funding sources beyond CMAQ, including but not limited to
10 Diesel Reductions Emissions Reduction Act (DERA) funds under the Federal Energy Act.

11 (f) *Severability*. If any clause, sentence, paragraph, section or part of this act shall be
12 adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further
13 judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall
14 be confined in its operation to the clause, sentence, paragraph, section or part of this act directly
15 involved in the controversy in which the judgment shall have been rendered.

16 SECTION 3. Section 44-18-30 of the General Laws in Chapter 44-18 entitled "Sales and
17 Use Taxes - Liability and Computation" is hereby amended to read as follows:

18 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
19 the taxes imposed by this chapter the following gross receipts:

20 (1) Sales and uses beyond constitutional power of state. - From the sale and from the
21 storage, use, or other consumption in this state of tangible personal property the gross receipts
22 from the sale of which, or the storage, use, or other consumption of which, this state is prohibited
23 from taxing under the Constitution of the United States or under the constitution of this state.

24 (2) Newspapers.

25 (i) From the sale and from the storage, use, or other consumption in this state of any
26 newspaper.

27 (ii) "Newspaper" means an unbound publication printed on newsprint, which contains
28 news, editorial comment, opinions, features, advertising matter, and other matters of public
29 interest.

30 (iii) "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or
31 similar item unless the item is printed for and distributed as a part of a newspaper.

32 (3) School meals. - From the sale and from the storage, use, or other consumption in this
33 state of meals served by public, private, or parochial schools, school districts, colleges,
34 universities, student organizations, and parent teacher associations to the students or teachers of a

1 school, college, or university whether the meals are served by the educational institutions or by a
2 food service or management entity under contract to the educational institutions.

3 (4) Containers.

4 (i) From the sale and from the storage, use, or other consumption in this state of:

5 (A) Non-returnable containers, including boxes, paper bags, and wrapping materials
6 which are biodegradable and all bags and wrapping materials utilized in the medical and healing
7 arts, when sold without the contents to persons who place the contents in the container and sell
8 the contents with the container.

9 (B) Containers when sold with the contents if the sale price of the contents is not
10 required to be included in the measure of the taxes imposed by this chapter.

11 (C) Returnable containers when sold with the contents in connection with a retail sale of
12 the contents or when resold for refilling.

13 (ii) As used in this subdivision, the term "returnable containers" means containers of a
14 kind customarily returned by the buyer of the contents for reuse. All other containers are "non-
15 returnable containers."

16 (5) (i) Charitable, educational, and religious organizations. - From the sale to as in
17 defined in this section, and from the storage, use, and other consumption in this state or any other
18 state of the United States of America of tangible personal property by hospitals not operated for a
19 profit, "educational institutions" as defined in subdivision (18) not operated for a profit, churches,
20 orphanages, and other institutions or organizations operated exclusively for religious or charitable
21 purposes, interest free loan associations not operated for profit, nonprofit organized sporting
22 leagues and associations and bands for boys and girls under the age of nineteen (19) years, the
23 following vocational student organizations that are state chapters of national vocational students
24 organizations: Distributive Education Clubs of America, (DECA); Future Business Leaders of
25 America, phi beta lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers
26 of America/Home Economics Related Occupations (FHA/HERD); and Vocational Industrial
27 Clubs of America (VICA), organized nonprofit golden age and senior citizens clubs for men and
28 women, and parent teacher associations.

29 (ii) In the case of contracts entered into with the federal government, its agencies or
30 instrumentalities, this state or any other state of the United States of America, its agencies, any
31 city, town, district, or other political subdivision of the states, hospitals not operated for profit,
32 educational institutions not operated for profit, churches, orphanages, and other institutions or
33 organizations operated exclusively for religious or charitable purposes, the contractor may
34 purchase such materials and supplies (materials and/or supplies are defined as those which are

1 essential to the project) that are to be utilized in the construction of the projects being performed
2 under the contracts without payment of the tax.

3 (iii) The contractor shall not charge any sales or use tax to any exempt agency,
4 institution, or organization but shall in that instance provide his or her suppliers with certificates
5 in the form as determined by the division of taxation showing the reason for exemption; and the
6 contractor's records must substantiate the claim for exemption by showing the disposition of all
7 property so purchased. If any property is then used for a nonexempt purpose, the contractor must
8 pay the tax on the property used.

9 (6) Gasoline. - From the sale and from the storage, use, or other consumption in this state
10 of: (i) gasoline and other products taxed under chapter 36 of title 31, and (ii) fuels used for the
11 propulsion of airplanes.

12 (7) Purchase for manufacturing purposes.

13 (i) From the sale and from the storage, use, or other consumption in this state of
14 computer software, tangible personal property, electricity, natural gas, artificial gas, steam,
15 refrigeration, and water, when the property or service is purchased for the purpose of being
16 manufactured into a finished product for resale, and becomes an ingredient, component, or
17 integral part of the manufactured, compounded, processed, assembled, or prepared product, or if
18 the property or service is consumed in the process of manufacturing for resale computer software,
19 tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration, or water.

20 (ii) "Consumed" means destroyed, used up, or worn out to the degree or extent that the
21 property cannot be repaired, reconditioned, or rendered fit for further manufacturing use.

22 (iii) "Consumed" includes mere obsolescence.

23 (iv) "Manufacturing" means and includes manufacturing, compounding, processing,
24 assembling, preparing, or producing.

25 (v) "Process of manufacturing" means and includes all production operations performed
26 in the producing or processing room, shop, or plant, insofar as the operations are a part of and
27 connected with the manufacturing for resale of tangible personal property, electricity, natural gas,
28 artificial gas, steam, refrigeration, or water and all production operations performed insofar as the
29 operations are a part of and connected with the manufacturing for resale of computer software.

30 (vi) "Process of manufacturing" does not mean or include administration operations such
31 as general office operations, accounting, collection, sales promotion, nor does it mean or include
32 distribution operations which occur subsequent to production operations, such as handling,
33 storing, selling, and transporting the manufactured products, even though the administration and
34 distribution operations are performed by or in connection with a manufacturing business.

1 (8) State and political subdivisions. - From the sale to, and from the storage, use, or other
2 consumption by, this state, any city, town, district, or other political subdivision of this state.
3 Every redevelopment agency created pursuant to chapter 31 of title 45 is deemed to be a
4 subdivision of the municipality where it is located.

5 (9) Food and food ingredients. - From the sale and storage, use, or other consumption in
6 this state of food and food ingredients as defined in section 44-18-7.1(l).

7 For the purposes of this exemption "food and food ingredients" shall not include candy,
8 soft drinks, dietary supplements, alcoholic beverages, tobacco, food sold through vending
9 machines or prepared food (as those terms are defined in section 44-18-7.1, unless the prepared
10 food is:

11 (i) Sold by a seller whose primary NAICS classification is manufacturing in sector 311,
12 except sub-sector 3118 (bakeries);

13 (ii) Sold in an unheated state by weight or volume as a single item;

14 (iii) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries,
15 donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas; and

16 is not sold with utensils provided by the seller, including plates, knives, forks, spoons,
17 glasses, cups, napkins, or straws.

18 (10) Medicines, drugs and durable medical equipment. - From the sale and from the
19 storage, use, or other consumption in this state, of;

20 (i) "Drugs" as defined in section 44-18-7.1(h)(i), sold on prescriptions, medical oxygen,
21 and insulin whether or not sold on prescription, and over-the-counter drugs as defined in section
22 44-18-7.1(h)(ii). For purposes of this exemption over-the-counter drugs shall not include
23 grooming and hygiene products as defined in section 44-18-7.1(h)(iii).

24 (ii) Durable medical equipment as defined in section 44-18-7.1(k) for home use only,
25 including, but not limited to, syringe infusers, ambulatory drug delivery pumps, hospital beds,
26 convalescent chairs, and chair lifts. Supplies used in connection with syringe infusers and
27 ambulatory drug delivery pumps which are sold on prescription to individuals to be used by them
28 to dispense or administer prescription drugs, and related ancillary dressings and supplies used to
29 dispense or administer prescription drugs shall also be exempt from tax.

30 (11) Prosthetic devices and mobility enhancing equipment. - From the sale and from the
31 storage, use, or other consumption in this state, of prosthetic devices as defined in section 44-18-
32 7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, spectacles and
33 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
34 prescription and mobility enhancing equipment as defined in section 44-18-7.1(p) including

1 wheelchairs, crutches and canes.

2 (12) Coffins, caskets, and burial garments. - From the sale and from the storage, use, or
3 other consumption in this state of coffins or caskets, and shrouds or other burial garments which
4 are ordinarily sold by a funeral director as part of the business of funeral directing.

5 (13) Motor vehicles sold to nonresidents.

6 (i) From the sale, subsequent to June 30, 1958, of a motor vehicle to a bona fide
7 nonresident of this state who does not register the motor vehicle in this state, whether the sale or
8 delivery of the motor vehicle is made in this state or at the place of residence of the nonresident.
9 A motor vehicle sold to a bona fide nonresident whose state of residence does not allow a like
10 exemption to its nonresidents is not exempt from the tax imposed under section 44-18-20. In that
11 event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal to the rate
12 that would be imposed in his or her state of residence not to exceed the rate that would have been
13 imposed under section 44-18-20. Notwithstanding any other provisions of law, a licensed motor
14 vehicle dealer shall add and collect the tax required under this subdivision and remit the tax to the
15 tax administrator under the provisions of chapters 18 and 19 of this title. When a Rhode Island
16 licensed motor vehicle dealer is required to add and collect the sales and use tax on the sale of a
17 motor vehicle to a bona fide nonresident as provided in this section, the dealer in computing the
18 tax takes into consideration the law of the state of the nonresident as it relates to the trade-in of
19 motor vehicles.

20 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
21 28, may require any licensed motor vehicle dealer to keep records of sales to bona fide
22 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
23 provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the
24 purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of
25 state motor vehicle registration or a valid out of state driver's license.

26 (iii) Any nonresident who registers a motor vehicle in this state within ninety (90) days
27 of the date of its sale to him or her is deemed to have purchased the motor vehicle for use,
28 storage, or other consumption in this state, and is subject to, and liable for the use tax imposed
29 under the provisions of section 44-18-20.

30 (14) Sales in public buildings by blind people. - From the sale and from the storage, use,
31 or other consumption in all public buildings in this state of all products or wares by any person
32 licensed under section 40-9-11.1.

33 (15) Air and water pollution control facilities. - From the sale, storage, use, or other
34 consumption in this state of tangible personal property or supplies acquired for incorporation into

1 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
2 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
3 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for
4 that purpose by the director of environmental management. The director of environmental
5 management may certify to a portion of the tangible personal property or supplies acquired for
6 incorporation into those facilities or used and consumed in the operation of those facilities to the
7 extent that that portion has as its primary purpose the control of the pollution or contamination of
8 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
9 device, building, machinery, or equipment.

10 (16) Camps. - From the rental charged for living quarters, or sleeping or housekeeping
11 accommodations at camps or retreat houses operated by religious, charitable, educational, or
12 other organizations and associations mentioned in subdivision (5), or by privately owned and
13 operated summer camps for children.

14 (17) Certain institutions. - From the rental charged for living or sleeping quarters in an
15 institution licensed by the state for the hospitalization, custodial, or nursing care of human beings.

16 (18) Educational institutions. - From the rental charged by any educational institution for
17 living quarters, or sleeping or housekeeping accommodations or other rooms or accommodations
18 to any student or teacher necessitated by attendance at an educational institution. "Educational
19 institution" as used in this section means an institution of learning not operated for profit which is
20 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular
21 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
22 school year, which keeps and furnishes to students and others records required and accepted for
23 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
24 inures to the benefit of any individual.

25 (19) Motor vehicle and adaptive equipment for persons with disabilities.

26 (i) From the sale of: (A) special adaptations, (B) the component parts of the special
27 adaptations, or (C) a specially adapted motor vehicle; provided, that the owner furnishes to the
28 tax administrator an affidavit of a licensed physician to the effect that the specially adapted motor
29 vehicle is necessary to transport a family member with a disability or where the vehicle has been
30 specially adapted to meet the specific needs of the person with a disability. This exemption
31 applies to not more than one motor vehicle owned and registered for personal, noncommercial
32 use.

33 (ii) For the purpose of this subsection the term "special adaptations" includes, but is not
34 limited to: wheelchair lifts; wheelchair carriers; wheelchair ramps; wheelchair securements; hand

1 controls; steering devices; extensions, relocations, and crossovers of operator controls; power-
2 assisted controls; raised tops or dropped floors; raised entry doors; or alternative signaling
3 devices to auditory signals.

4 (iii) From the sale of: (a) special adaptations, (b) the component parts of the special
5 adaptations, for a "wheelchair accessible taxicab" as defined in section 39-14-1 and/or a
6 "wheelchair accessible public motor vehicle" as defined in section 39-14.1-1.

7 (iv) For the purpose of this subdivision the exemption for a "specially adapted motor
8 vehicle" means a use tax credit not to exceed the amount of use tax that would otherwise be due
9 on the motor vehicle, exclusive of any adaptations. The use tax credit is equal to the cost of the
10 special adaptations, including installation.

11 (20) Heating fuels. - From the sale and from the storage, use, or other consumption in
12 this state of every type of fuel used in the heating of homes and residential premises.

13 (21) Electricity and gas. - From the sale and from the storage, use, or other consumption
14 in this state of electricity and gas furnished for domestic use by occupants of residential premises.

15 (22) Manufacturing machinery and equipment.

16 (i) From the sale and from the storage, use, or other consumption in this state of tools,
17 dies, and molds, and machinery and equipment (including replacement parts), and related items to
18 the extent used in an industrial plant in connection with the actual manufacture, conversion, or
19 processing of tangible personal property, or to the extent used in connection with the actual
20 manufacture, conversion or processing of computer software as that term is utilized in industry
21 numbers 7371, 7372, and 7373 in the standard industrial classification manual prepared by the
22 technical committee on industrial classification, office of statistical standards, executive office of
23 the president, United States bureau of the budget, as revised from time to time, to be sold, or that
24 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
25 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
26 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
27 be sold in the regular course of business;

28 (ii) Machinery and equipment and related items are not deemed to be used in connection
29 with the actual manufacture, conversion, or processing of tangible personal property, or in
30 connection with the actual manufacture, conversion or processing of computer software as that
31 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
32 manual prepared by the technical committee on industrial classification, office of statistical
33 standards, executive office of the president, United States bureau of the budget, as revised from
34 time to time, to be sold to the extent the property is used in administration or distribution

1 operations;

2 (iii) Machinery and equipment and related items used in connection with the actual
3 manufacture, conversion, or processing of any computer software or any tangible personal
4 property which is not to be sold and which would be exempt under subdivision (7) or this
5 subdivision if purchased from a vendor or machinery and equipment and related items used
6 during any manufacturing, converting or processing function is exempt under this subdivision
7 even if that operation, function, or purpose is not an integral or essential part of a continuous
8 production flow or manufacturing process;

9 (iv) Where a portion of a group of portable or mobile machinery is used in connection
10 with the actual manufacture, conversion, or processing of computer software or tangible personal
11 property to be sold, as previously defined, that portion, if otherwise qualifying, is exempt under
12 this subdivision even though the machinery in that group is used interchangeably and not
13 otherwise identifiable as to use.

14 (23) Trade-in value of motor vehicles. - From the sale and from the storage, use, or other
15 consumption in this state of so much of the purchase price paid for a new or used automobile as is
16 allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller or of
17 the proceeds applicable only to the motor vehicle as are received from an insurance claim as a
18 result of a stolen or damaged motor vehicle, or of the proceeds applicable only to the automobile
19 as are received from the manufacturer of automobiles for the repurchase of the automobile
20 whether the repurchase was voluntary or not towards the purchase of a new or used automobile
21 by the buyer; provided, that the proceeds from an insurance claim or repurchase is in lieu of the
22 benefit prescribed in section 44-18-21 for the total loss or destruction of the automobile; and
23 provided, further, that the tax has not been reimbursed as part of the insurance claim or
24 repurchase. For the purpose of this subdivision, the word "automobile" means a private passenger
25 automobile not used for hire and does not refer to any other type of motor vehicle.

26 (24) Precious metal bullion.

27 (i) From the sale and from the storage, use, or other consumption in this state of precious
28 metal bullion, substantially equivalent to a transaction in securities or commodities.

29 (ii) For purposes of this subdivision, "precious metal bullion" means any elementary
30 precious metal which has been put through a process of smelting or refining, including, but not
31 limited to, gold, silver, platinum, rhodium, and chromium, and which is in a state or condition
32 that its value depends upon its content and not upon its form.

33 (iii) The term does not include fabricated precious metal which has been processed or
34 manufactured for some one or more specific and customary industrial, professional, or artistic

1 uses.

2 (25) Commercial vessels. - From sales made to a commercial ship, barge, or other vessel
3 of fifty (50) tons burden or over, primarily engaged in interstate or foreign commerce, and from
4 the repair, alteration, or conversion of the vessels, and from the sale of property purchased for the
5 use of the vessels including provisions, supplies, and material for the maintenance and/or repair
6 of the vessels.

7 (26) Commercial fishing vessels. - From the sale and from the storage, use, or other
8 consumption in this state of vessels and other water craft which are in excess of five (5) net tons
9 and which are used exclusively for "commercial fishing", as defined in this subdivision, and from
10 the repair, alteration, or conversion of those vessels and other watercraft, and from the sale of
11 property purchased for the use of those vessels and other watercraft including provisions,
12 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
13 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
14 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means the
15 taking or the attempting to take any fish, shellfish, crustacea, or bait species with the intent of
16 disposing of them for profit or by sale, barter, trade, or in commercial channels. The term does
17 not include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
18 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
19 license issued by the department of environmental management pursuant to section 20-2-27.1
20 which meet the following criteria: (i) the operator must have a current U.S.C.G. license to carry
21 passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii)
22 U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island
23 boat registration to prove Rhode Island home port status; (iv) the vessel must be used as a
24 commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be
25 able to demonstrate that at least fifty percent (50%) of its annual gross income derives from
26 charters or provides documentation of a minimum of one hundred (100) charter trips annually; (v)
27 the vessel must have a valid Rhode Island party and charter boat license. The tax administrator
28 shall implement the provisions of this subdivision by promulgating rules and regulations relating
29 thereto.

30 (27) Clothing and footwear. - From the sales of articles of clothing, including footwear,
31 intended to be worn or carried on or about the human body. For the purposes of this section,
32 "clothing or footwear" does not include clothing accessories or equipment or special clothing or
33 footwear primarily designed for athletic activity or protective use as these terms are defined in
34 section 44-18-7.1(f).

1 (28) Water for residential use. - From the sale and from the storage, use, or other
2 consumption in this state of water furnished for domestic use by occupants of residential
3 premises.

4 (29) Bibles. - [Unconstitutional; see *Ahlburn v. Clark*, 728 A.2d 449 (R.I. 1999); see
5 Notes to Decisions.]From the sale and from the storage, use, or other consumption in the state of
6 any canonized scriptures of any tax-exempt nonprofit religious organization including, but not
7 limited to, the Old Testament and the New Testament versions.

8 (30) Boats.

9 (i) From the sale of a boat or vessel to a bona fide nonresident of this state who does not
10 register the boat or vessel in this state, or document the boat or vessel with the United States
11 government at a home port within the state, whether the sale or delivery of the boat or vessel is
12 made in this state or elsewhere; provided, that the nonresident transports the boat within thirty
13 (30) days after delivery by the seller outside the state for use thereafter solely outside the state.

14 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-
15 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
16 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
17 provided in this subdivision, including the affidavit of the seller that the buyer represented
18 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
19 nonresident of this state.

20 (31) Youth activities equipment. - From the sale, storage, use, or other consumption in
21 this state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
22 eleemosynary organizations, for the purposes of youth activities which the organization is formed
23 to sponsor and support; and by accredited elementary and secondary schools for the purposes of
24 the schools or of organized activities of the enrolled students.

25 (32) Farm equipment. - From the sale and from the storage or use of machinery and
26 equipment used directly for commercial farming and agricultural production; including, but not
27 limited to, tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
28 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
29 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and
30 other farming equipment, including replacement parts, appurtenant to or used in connection with
31 commercial farming and tools and supplies used in the repair and maintenance of farming
32 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or
33 the production within this state of agricultural products, including, but not limited to, field or
34 orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or

1 production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to
2 the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued
3 prior to July 1, 2002; for exemptions issued or renewed after July 1, 2002, there shall be two (2)
4 levels. Level I shall be based on proof of annual gross sales from commercial farming of at least
5 twenty-five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption
6 provided in this subdivision except for motor vehicles with an excise tax value of five thousand
7 dollars (\$5,000) or greater; Level II shall be based on proof of annual gross sales from
8 commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for
9 purchases subject to the exemption provided in this subdivision including motor vehicles with an
10 excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the
11 exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be
12 required for the prior year; for any renewal of an exemption granted in accordance with this
13 subdivision at either Level I or Level II, proof of gross annual sales from commercial farming at
14 the requisite amount shall be required for each of the prior two (2) years. Certificates of
15 exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption
16 and be valid for four (4) years after the date of issue. This exemption applies even if the same
17 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
18 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
19 vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration
20 displaying farm plates as provided for in section 31-3-31.

21 (33) Compressed air. - From the sale and from the storage, use, or other consumption in
22 the state of compressed air.

23 (34) Flags. - From the sale and from the storage, consumption, or other use in this state
24 of United States, Rhode Island or POW-MIA flags.

25 (35) Motor vehicle and adaptive equipment to certain veterans. - From the sale of a
26 motor vehicle and adaptive equipment to and for the use of a veteran with a service-connected
27 loss of or the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee,
28 whether service connected or not. The motor vehicle must be purchased by and especially
29 equipped for use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is
30 granted under rules or regulations that the tax administrator may prescribe.

31 (36) Textbooks. - From the sale and from the storage, use, or other consumption in this
32 state of textbooks by an "educational institution" as defined in subdivision (18) of this section and
33 as well as any educational institution within the purview of section 16-63-9(4) and used textbooks
34 by any purveyor.

1 (37) Tangible personal property and supplies used in on-site hazardous waste recycling,
2 reuse, or treatment. - From the sale, storage, use, or other consumption in this state of tangible
3 personal property or supplies used or consumed in the operation of equipment, the exclusive
4 function of which is the recycling, reuse, or recovery of materials (other than precious metals, as
5 defined in subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as
6 defined in section 23-19.1-4, where the "hazardous wastes" are generated in Rhode Island solely
7 by the same taxpayer and where the personal property is located at, in, or adjacent to a generating
8 facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the director of
9 the department of environmental management certifying that the equipment and/or supplies as
10 used, or consumed, qualify for the exemption under this subdivision. If any information relating
11 to secret processes or methods of manufacture, production, or treatment is disclosed to the
12 department of environmental management only to procure an order, and is a "trade secret" as
13 defined in section 28-21-10(b), it is not open to public inspection or publicly disclosed unless
14 disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

15 (38) Promotional and product literature of boat manufacturers. - From the sale and from
16 the storage, use, or other consumption of promotional and product literature of boat
17 manufacturers shipped to points outside of Rhode Island which either: (i) accompany the product
18 which is sold, (ii) are shipped in bulk to out of state dealers for use in the sale of the product, or
19 (iii) are mailed to customers at no charge.

20 (39) Food items paid for by food stamps. - From the sale and from the storage, use, or
21 other consumption in this state of eligible food items payment for which is properly made to the
22 retailer in the form of U.S. government food stamps issued in accordance with the Food Stamp
23 Act of 1977, 7 U.S.C. section 2011 et seq.

24 (40) Transportation charges. - From the sale or hiring of motor carriers as defined in
25 section 39-12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight
26 tariff filed with the Rhode Island public utilities commission on the number of miles driven or by
27 the number of hours spent on the job.

28 (41) Trade-in value of boats. - From the sale and from the storage, use, or other
29 consumption in this state of so much of the purchase price paid for a new or used boat as is
30 allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the
31 proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen
32 or damaged boat, towards the purchase of a new or used boat by the buyer.

33 (42) Equipment used for research and development. - From the sale and from the
34 storage, use, or other consumption of equipment to the extent used for research and development

1 purposes by a qualifying firm. For the purposes of this subdivision, "qualifying firm" means a
2 business for which the use of research and development equipment is an integral part of its
3 operation, and "equipment" means scientific equipment, computers, software, and related items.

4 (43) Coins. - From the sale and from the other consumption in this state of coins having
5 numismatic or investment value.

6 (44) Farm structure construction materials. - Lumber, hardware and other materials used
7 in the new construction of farm structures, including production facilities such as, but not limited
8 to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns, laying
9 houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing
10 rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and
11 trench silos, feed storage sheds, and any other structures used in connection with commercial
12 farming.

13 (45) Telecommunications carrier access service. - Carrier access service or
14 telecommunications service when purchased by a telecommunications company from another
15 telecommunications company to facilitate the provision of telecommunications service.

16 (46) Boats or vessels brought into the state exclusively for winter storage, maintenance,
17 repair or sale. - Notwithstanding the provisions of sections 44-18-10, 44-18-11, 44-18-20, the tax
18 imposed by section 44-18-20 is not applicable for the period commencing on the first day of
19 October in any year to and including the 30th day of April next succeeding with respect to the use
20 of any boat or vessel within this state exclusively for purposes of: (i) delivery of the vessel to a
21 facility in this state for storage, including dry storage and storage in water by means of apparatus
22 preventing ice damage to the hull, maintenance, or repair; (ii) the actual process of storage,
23 maintenance, or repair of the boat or vessel; or (iii) storage for the purpose of selling the boat or
24 vessel.

25 (47) Jewelry display product. - From the sale and from the storage, use, or other
26 consumption in this state of tangible personal property used to display any jewelry product;
27 provided, that title to the jewelry display product is transferred by the jewelry manufacturer or
28 seller and that the jewelry display product is shipped out of state for use solely outside the state
29 and is not returned to the jewelry manufacturer or seller.

30 (48) Boats or vessels generally. - Notwithstanding the provisions of this chapter, the tax
31 imposed by sections 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the
32 storage, use, or other consumption in this state of any new or used boat. The exemption provided
33 for in this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the
34 federal ten percent (10%) surcharge on luxury boats is repealed.

1 (49) Banks and Regulated investment companies interstate toll-free calls. -
2 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
3 the furnishing of interstate and international, toll-free terminating telecommunication service that
4 is used directly and exclusively by or for the benefit of an eligible company as defined in this
5 subdivision; provided, that an eligible company employs on average during the calendar year no
6 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
7 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
8 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
9 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
10 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
11 a state chartered bank.

12 (50) Mobile and manufactured homes generally. - From the sale and from the storage,
13 use, or other consumption in this state of mobile and/or manufactured homes as defined and
14 subject to taxation pursuant to the provisions of chapter 44 of title 31.

15 (51) Manufacturing business reconstruction materials.

16 (i) From the sale and from the storage, use or other consumption in this state of lumber,
17 hardware, and other building materials used in the reconstruction of a manufacturing business
18 facility which suffers a disaster, as defined in this subdivision, in this state. "Disaster" means any
19 occurrence, natural or otherwise, which results in the destruction of sixty percent (60%) or more
20 of an operating manufacturing business facility within this state. "Disaster" does not include any
21 damage resulting from the willful act of the owner of the manufacturing business facility.

22 (ii) Manufacturing business facility includes, but is not limited to, the structures housing
23 the production and administrative facilities.

24 (iii) In the event a manufacturer has more than one manufacturing site in this state, the
25 sixty percent (60%) provision applies to the damages suffered at that one site.

26 (iv) To the extent that the costs of the reconstruction materials are reimbursed by
27 insurance, this exemption does not apply.

28 (52) Tangible personal property and supplies used in the processing or preparation of
29 floral products and floral arrangements. - From the sale, storage, use, or other consumption in this
30 state of tangible personal property or supplies purchased by florists, garden centers, or other like
31 producers or vendors of flowers, plants, floral products, and natural and artificial floral
32 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
33 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
34 processing, or preparation of flowers, plants, floral products, or natural and artificial floral

1 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
2 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
3 food, insecticide and fertilizers.

4 (53) Horse food products. - From the sale and from the storage, use, or other
5 consumption in this state of horse food products purchased by a person engaged in the business of
6 the boarding of horses.

7 (54) Non-motorized recreational vehicles sold to nonresidents.

8 (i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to
9 a bona fide nonresident of this state who does not register the non-motorized recreational vehicle
10 in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this
11 state or at the place of residence of the nonresident; provided, that a non-motorized recreational
12 vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption
13 to its nonresidents is not exempt from the tax imposed under section 44-18-20; provided, further,
14 that in that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal
15 to the rate that would be imposed in his or her state of residence not to exceed the rate that would
16 have been imposed under section 44-18-20. Notwithstanding any other provisions of law, a
17 licensed non-motorized recreational vehicle dealer shall add and collect the tax required under
18 this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and
19 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle
20 dealer is required to add and collect the sales and use tax on the sale of a non-motorized
21 recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing
22 the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in
23 of motor vehicles.

24 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
25 28, may require any licensed non-motorized recreational vehicle dealer to keep records of sales to
26 bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the
27 exemption provided in this subdivision, including the affidavit of a licensed non-motorized
28 recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the
29 holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle
30 registration or a valid out-of-state driver's license.

31 (iii) Any nonresident who registers a non-motorized recreational vehicle in this state
32 within ninety (90) days of the date of its sale to him or her is deemed to have purchased the non-
33 motorized recreational vehicle for use, storage, or other consumption in this state, and is subject
34 to, and liable for the use tax imposed under the provisions of section 44-18-20.

1 (iv) "Non-motorized recreational vehicle" means any portable dwelling designed and
2 constructed to be used as a temporary dwelling for travel, camping, recreational, and vacation use
3 which is eligible to be registered for highway use, including, but not limited to, "pick-up coaches"
4 or "pick-up campers," "travel trailers," and "tent trailers" as those terms are defined in chapter 1
5 of title 31.

6 (55) Sprinkler and fire alarm systems in existing buildings. - From the sale in this state of
7 sprinkler and fire alarm systems, emergency lighting and alarm systems, and from the sale of the
8 materials necessary and attendant to the installation of those systems, that are required in
9 buildings and occupancies existing therein in July 2003, in order to comply with any additional
10 requirements for such buildings arising directly from the enactment of the Comprehensive Fire
11 Safety Act of 2003, and that are not required by any other provision of law or ordinance or
12 regulation adopted pursuant to that Act. The exemption provided in this subdivision shall expire
13 on December 31, 2008.

14 (56) Aircraft. - Notwithstanding the provisions of this chapter, the tax imposed by
15 sections 44-18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or
16 other consumption in this state of any new or used aircraft or aircraft parts.

17 (57) Renewable energy products. - Notwithstanding any other provisions of Rhode
18 Island general laws the following products shall also be exempt from sales tax: solar photovoltaic
19 modules or panels, or any module or panel that generates electricity from light; solar thermal
20 collectors, including, but not limited to, those manufactured with flat glass plates, extruded
21 plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-
22 water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if
23 specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with
24 utility power lines; manufactured mounting racks and ballast pans for solar collector, module or
25 panel installation. Not to include materials that could be fabricated into such racks; monitoring
26 and control equipment, if specified or supplied by a manufacturer of solar thermal, solar
27 photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such
28 systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the
29 manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage
30 tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank
31 comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is
32 not exempt from state sales tax.

33 (58) Returned property. - The amount charged for property returned by customers upon
34 rescission of the contract of sale when the entire amount exclusive of handling charges paid for

1 the property is refunded in either cash or credit, and where the property is returned within one
2 hundred twenty (120) days from the date of delivery.

3 (59) Dietary Supplements. - From the sale and from the storage, use or other
4 consumption of dietary supplements as defined in section 44-18-7.1(l)(v), sold on prescriptions.

5 (60) Blood. - From the sale and from the storage, use or other consumption of human
6 blood.

7 (61) Prewritten computer software delivered electronically. - From the sale and from the
8 storage, use or other consumption of prewritten computer software delivered electronically or by
9 load and leave.

10 (62) Agricultural products for human consumption. - From the sale and from the storage,
11 use or other consumption of livestock and poultry of the kinds of products of which ordinarily
12 constitute food for human consumption and of livestock of the kind the products of which
13 ordinarily constitute fibers for human use.

14 [\(63\) Diesel emission control technology. - From the sale and use of diesel retrofit](#)
15 [technology that is required by section 31-47.3-4 of the general laws.](#)

16 SECTION 4. This act shall take effect upon passage.

=====
LC01494/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO MOTOR AND OTHER VEHICLES -- THE DIESEL EMISSION
REDUCTION ACT

- 1 This act would add new provisions with respect to diesel emissions control in public
- 2 projects, and would exempt diesel emissions control technology from the sales tax.
- 3 This act would take effect upon passage.

=====
LC01494/SUB A
=====

2010 -- S 2440
SUBSTITUTE A

H.

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- THE DIESEL EMISSION REDUCTION ACT

=====
LC01494/SUB A
=====

Presented by