

Smith Bill To Establish 'Volkswagen Settlement Utilization Fund for Motor Vehicle Emissions Reduction and Air Pollution Control' Clears Committee

TRENTON – Legislation sponsored by Senate Environment and Energy Committee Chairman Bob Smith that would establish the “Volkswagen Settlement Utilization Fund for Motor Vehicle Emissions Reduction and Air Pollution Control” and direct how the moneys are used within by the Department of Environmental Protection was approved today by the Committee.

The bill (S-3029) would establish the “Volkswagen Settlement Utilization Fund for Motor Vehicle Emissions Reduction and Air Pollution Control” within the Department of Environmental Protection, and would dedicate the fund’s resources to programs designed to encourage the use of zero emission vehicles through infrastructure construction, decrease diesel emissions at the Newark and Elizabeth ports, South Jersey Port District ports, and other ports in southern New Jersey, and otherwise reduce air pollution from motor vehicle emissions.

“As stewards of our environment for future generations, we must address damages created by bad actors and work toward preventing any further harm to our environment,” said Senator Smith (D-Middlesex, Somerset). “The fund, created with moneys received by the State from any settlement between the United States Environmental Protection Agency and the Volkswagen company, would allow New Jersey to offset any damages and finance programs that will help reduce air pollution in our state.”

In September 2015, the EPA issued a notice of violation to German automaker Volkswagen (VW) after the agency found VW had intentionally programmed turbocharged direct injection (TDI) diesel engines to activate certain emissions controls only during laboratory emissions testing. Therefore, when these vehicles were on the road, their nitrogen oxide (NOx) emission levels were up to 40 times higher than US standards. About 17,400 cars in New Jersey from model years 2009 to 2015 are estimated to have this programming.

NOx contributes to ozone pollution, acid rain, the formation of particulate matter in the air and to global climate change. Exposure to NOx and its byproducts has been linked to such serious health problems as cardiopulmonary disease, lung cancer, chronic obstructive pulmonary disease and exacerbation of asthma.

On January 4, 2016, the Justice Department, on behalf of the EPA, filed a lawsuit against VW for Clean Air Act violations. VW has entered into a \$14.7 billion settlement agreement with the EPA. The settlement requires VW to establish a \$2.7 billion mitigation trust fund, with New Jersey potentially receiving \$65.3 million if the State elects to become a beneficiary under the settlement. The mitigation trust fund will pay for defined eligible projects that reduce NOx. An additional \$1.2 billion is available to states for electric vehicle charging infrastructure. Within 60 days of being designated a beneficiary, New Jersey must submit a plan to the mitigation trust fund trustee for approval; the state would then have ten years to spend the funds as approved.

Additionally, in February 2016, New Jersey filed suit against the automaker seeking maximum penalties for alleged violations of New Jersey’s Air Pollution Control Act and Consumer Fraud Act.

“Establishing this fund and outlining the State’s priorities will help ensure New Jersey’s access to the federal funds and will also ensure that the money is put to the right use,” said Senator Smith.

The bill would also require the DEP to issue grants or loans from the fund to the Port Authority of New York and New Jersey, the South Jersey Port Corporation, other ports in southern New Jersey, or port operators in those regions, to reduce diesel emissions. This would include acquisition of advanced maritime emissions control system pollution control equipment at the ports; incentives for the repowering or replacement of pre-2007 model year heavy duty diesel trucks delivering and picking up containers at the ports; upgrades, repowering, or replacement of cargo handling equipment at the ports to zero emission vehicles and equipment; and any other measures to reduce diesel emissions.

Under the bill, 15 percent of the moneys received by the State from the settlement would be used to pay for costs directly connected to the acquisition, installation, operation, and maintenance of infrastructure

for charging or filling stations for zero emission vehicles that are cars or light duty trucks. Additionally, the bill would prohibit using more than five percent of the fund for administrative costs. The committee approved the bill by a vote of 4-0. The bill next heads to the Senate Budget and Appropriations Committee for further consideration.