

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1088 Session of
2011

INTRODUCED BY PICKETT, DENLINGER, MOUL, PERRY, SAYLOR, WATSON,
MAJOR, AUMENT, BAKER, BARRAR, BOYD, CALTAGIRONE, CAUSER,
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WHITE, RAPP, PETRI AND BEAR, APRIL 20, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 20, 2011

AN ACT

1 Amending the act of November 29, 2004 (P.L.1376, No.178),
2 entitled "An act relating to alternative fuels; establishing
3 the Alternative Fuels Incentive Fund; authorizing grants and
4 rebates to promote the use of alternative fuels; imposing
5 duties on the Department of Environmental Protection;
6 providing for an annual report; allocating funds collected
7 from the utilities gross receipts tax; making an
8 appropriation; abrogating regulations; and making a repeal,"
9 further providing for title of act, for short title, for
10 definitions, for the Alternative Fuels Incentive Fund and for
11 biomass-based diesel production incentives; and making
12 editorial changes.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The title of the act of November 29, 2004
16 (P.L.1376, No.178), known as the Alternative Fuels Incentive
17 Act, is amended to read:

AN ACT

18
19 Relating to [alternative fuels] compressed natural gas;

1 establishing the [Alternative Fuels] Keystone Fuel Incentive
2 Fund; authorizing grants [and rebates] to promote the use of
3 [alternative fuels] compressed natural gas; imposing duties
4 on the Department of Environmental Protection; providing for
5 an annual report; allocating funds collected from the
6 utilities gross receipts tax; making an appropriation;
7 abrogating regulations; and making a repeal.

8 Section 2. Section 1 of the act is amended to read:

9 Section 1. Short title.

10 This act shall be known and may be cited as the [Alternative
11 Fuels] Keystone Fuel Incentive Act.

12 Section 3. Sections 2, 3 and 3.1 of the act, amended or
13 added July 10, 2008 (1st Sp.Sess., P.L.1891, No.2), are amended
14 to read:

15 Section 2. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 ["Accredited laboratory." A laboratory accredited by the
20 American Society for Testing and Materials International.

21 "Alcohols." Fuels composed of 85% ethanol or methanol and
22 15% gasoline.

23 "Alternative energy source." Includes, but is not limited
24 to, any of the following sources of energy: wind, solar
25 photovoltaic, solar thermal, combined heat and power, integrated
26 gasification combined cycle, geothermal, low-impact
27 hydroelectric, biomass, biologically derived methane gas, coal
28 bed methane gas, fuel cells, waste coal and distributed
29 generated systems.

30 "Alternative fuel producer." A producer of an alternative

1 fuel whose production facility of alternative fuel is located
2 within this Commonwealth.

3 "Alternative fuel vehicle." A self-propelled vehicle
4 operating on an alternative fuel designed for transporting
5 persons or property. This term includes a bi-fuel vehicle, dual-
6 fuel vehicle, hybrid vehicle and dedicated vehicle.

7 "Alternative fuels." Motor vehicle fuels and fuel systems
8 which when compared to conventional gasoline or reformulated
9 gasoline, diesel fuel, oil or coal will result in lower
10 emissions of oxides of nitrogen, volatile organic compounds,
11 carbon monoxide or particulates, toxic air pollutants,
12 greenhouse gases or any combination thereof. These shall
13 include, but are not limited to, compressed natural gas (CNG),
14 liquefied natural gas (LNG), liquid propane gas (LPG), alcohols
15 (ethanol - e85 and methanol - m85), hydrogen, hythane (any
16 combination of CNG and hydrogen), biofuels and electricity.

17 "American Society for Testing and Materials International."
18 The nonprofit organization which develops consensus standards
19 for materials, products, systems and services.]

20 "Bi-fuel vehicle." [or "dual-fuel vehicle."] A vehicle that
21 operates on [an alternative fuel] compressed natural gas and
22 gasoline or [an alternative fuel] compressed natural gas and
23 diesel fuel and has a minimum fueling capacity of five gasoline
24 gallon equivalents of compressed natural gas. This term includes
25 original equipment manufacturer (OEM) and retrofitted vehicles.

26 ["Biodiesel fuel." Either of the following:

27 (1) A biofuel derived from vegetable oils or animal fats
28 that is designated B100 and meets the American Society of
29 Testing and Materials International specification D6751.

30 (2) Fuel comprised of 20% biodiesel with 80% diesel fuel

that is designated B20.

"Biofuels." Fuels derived from alcohols, ether, esters and other chemicals made from cellulosic biomass such as herbaceous and woody plants, agricultural and forestry residues and a large portion of municipal solid and industrial waste.

"Biomass-based diesel." The term shall have the meaning set forth in section 211(o)(1)(D) of the Clean Air Act (69 Stat. 322, 121 Stat. 1519, 42 U.S.C. § 7545(o)(1)(D)) and shall meet the ASTM Specification D6751 Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels or its successor standard.]

"Compressed natural gas vehicle." A self-propelled, dedicated vehicle operating on compressed natural gas designed for transporting persons or property.

"Dedicated vehicle." [A vehicle that runs exclusively on an alternative fuel. This term includes an original equipment manufacturer or retrofit vehicle.] A vehicle that is produced by an original equipment manufacturer or a small volume manufacturer that operates on 90% or more compressed natural gas fuel and 10% or less on gasoline or 90% or more on compressed natural gas fuel and 10% or less on diesel fuel.

"Department." The Department of Environmental Protection of the Commonwealth.

["Diesel fuel." Diesel engine fuel and all other liquids suitable for the generation of power for the propulsion of motor vehicles except gasoline.]

"Fleet." A group of [ten] five or more vehicles, [comprised of passenger cars, light-duty trucks, buses and heavy-duty trucks up to 26,000 pounds gross vehicle weight] that is owned and operated by a single school district, municipal authority,

political subdivision, nonprofit entity, corporation, limited liability company or partnership located within this Commonwealth.

"Fund." The [Alternative Fuels] Keystone Fuel Incentive Fund established under section 3.

["Gallon." The quantity of fluid or liquid at a temperature of 60 degrees Fahrenheit necessary to completely fill a United States standard gallon liquid measure.

"Gasoline." The same as a motor fuel and also means every liquid petroleum product, or combination thereof, other than solvents having an Atmospheric Pressure Index gravity of 46 degrees or above at a temperature of 60 degrees Fahrenheit and at atmospheric pressure and includes drip, casing head or natural gasoline. The term includes liquid of less than 46 degrees Atmospheric Pressure Index gravity at a temperature of 60 degrees Fahrenheit compounded, blended, manufactured or otherwise produced by mixing or blending gasoline or solvents with blending materials when the blended product can be used for generating power in internal combustion engines.

"Hybrid vehicle." A motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(1) An internal combustion engine using combustible fuel.

(2) A rechargeable energy storage system.

"Incremental cost." Either of the following:

(1) The difference between the purchase price of an alternative fuel vehicle and the purchase price of a same or similar model gasoline-only or diesel-only fueled vehicle.

(2) The difference between the base price of conventional diesel fuel and biodiesel fuel.]

1 "Incremental cost." The excess cost of any new compressed
2 natural gas motor vehicle over the price for a gasoline or
3 diesel fuel motor vehicle of the same model or cost to retrofit
4 a vehicle to run on compressed natural gas.

5 "OEM." The original equipment manufacturer.

6 "OEM vehicle." A vehicle originally manufactured to run on
7 [an alternative fuel] compressed natural gas.

8 ["Qualified biomass-based diesel producer." A producer of
9 25,000 gallons or more of biomass-based diesel per month with
10 its principal production facility in this Commonwealth that has
11 complied with the requirements of section 3.1(a)(2) and that is
12 in compliance with all laws and current in all obligations to
13 the Commonwealth.

14 "Renewable energy." Energy derived from solar, wind,
15 geothermal and hydroelectric sources.]

16 "Retrofit." [Install an alternative fuel system into a
17 gasoline-fueled vehicle] Installation of a compressed natural
18 gas system into a gasoline-fueled or diesel-fueled vehicle.

19 ["Stationary power facility." A fixed, in-place facility
20 that generates electric power for distribution into the electric
21 distribution system or for use onsite as primary power or backup
22 power for critical need or at adjacent locations not connected
23 to the electricity grid for primary power.]

24 "Taxi." A motor vehicle designed for carrying no more than
25 eight passengers, exclusive of the driver, on a call and demand
26 service, and used for the transportation of persons for
27 compensation.

28 Section 3. [Alternative Fuels] Keystone Fuel Incentive Fund.

29 (a) Establishment.--There is hereby established a separate
30 account in the State Treasury to be known as the [Alternative

Fuels] Keystone Fuel Incentive Fund. This fund shall be administered by the department. The fund shall consist of that portion of revenues allocated from the utilities gross receipts tax as set forth in section 5.

(b) Expenditures.--

(1) Moneys from the fund shall be expended by the department as follows:

[(i) As grants to school districts, municipal authorities, political subdivisions, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth to provide funding for:

(A) The expenses relative to retrofitting vehicles to operate on alternative fuels as either a bi-fuel, dual-fuel, hybrid or dedicated vehicle.

(B) The incremental cost of purchase of bi-fuel, dual-fuel, hybrid or dedicated vehicles.

(C) The cost to purchase and install the necessary fleet refueling or home-refueling equipment for bi-fuel, dual-fuel, hybrid or dedicated vehicles.

(D) The cost to perform research, training development and demonstration of new applications or next-phase technology related to alternative fuel vehicles.

(ii) As grants to individual residents of this Commonwealth who purchase an alternative fuel vehicle for the cost to purchase and install the necessary home refueling equipment for bi-fuel, dual-fuel, hybrid or dedicated vehicles.

(iii) As grants to school districts, municipal

1 authorities, political subdivisions and nonprofit
2 entities to cover the incremental cost to purchase
3 biofuel.

4 (iv) As rebates to residents of this Commonwealth to
5 meet the incremental cost to individuals who purchase a
6 bi-fuel, dual-fuel, hybrid or dedicated vehicle.]

7 (i) Ten percent of the money from the fund shall be
8 expended as grants to taxi companies and operators for
9 the incremental cost of purchasing dedicated compressed
10 natural gas taxis. Incremental cost for this subparagraph
11 shall be capped at \$10,000.

12 (ii) Sixty-five percent of the money from the fund
13 shall be expended as grants to school districts,
14 municipal authorities, political subdivisions, nonprofit
15 entities, corporations, limited liability companies or
16 partnerships incorporated or registered in this
17 Commonwealth to provide funding for the incremental cost
18 of purchasing dedicated compressed natural gas vehicles
19 with a gross vehicle weight rating of 14,000 pounds or
20 more. Grant applications from school districts, municipal
21 authorities and political subdivisions shall be given
22 priority.

23 (iii) Twenty-three percent of the money from the
24 fund shall be expended as grants to individual residents
25 of this Commonwealth for the purchase of bi-fuel
26 vehicles. The grant amount shall be limited to the
27 incremental cost of the bi-fuel vehicle and may not
28 exceed \$10,000.

29 [(2) Moneys from the fund may be expended by the
30 department as reimbursement of up to 10¢ per gallon in a

1 calendar year for up to 12,500,000 gallons of renewable fuels
2 produced by a qualified renewable fuels producer.]

3 (3) One year after the effective date of this act and
4 for every year thereafter, the amount of funding by the
5 department under this subsection shall be evaluated to
6 determine whether an adjustment in funding level is
7 appropriate. The evaluation criteria shall be based on
8 economic and regulatory conditions that affect the
9 feasibility of [alternative fuels] compressed natural gas and
10 the financial solvency of the fund. At no time shall the
11 grant [or rebate] funding amount be below the amounts
12 specified in this section.

13 (4) No more than 1.5% of the fund may be used to
14 administer the provisions of this act.

15 (4.1) No more than 0.5% of the fund may be used to
16 educate and do outreach to car dealers and consumers about
17 this program.

18 (5) No more than [10%] 15% of the fund may be awarded to
19 any one school district, municipal authority, political
20 subdivision, nonprofit entity, corporation, limited liability
21 company, partnership or resident of this Commonwealth in any
22 one year, provided that the total amount of grants awarded
23 [and rebates provided to grant and rebate] to grant
24 recipients within a [political subdivision] county in a year
25 shall not exceed [15%] 30% of the fund. However, if the total
26 grant [and rebate] money to be awarded in that year is less
27 than the total grant money available for that year, the
28 department may increase the [10%] 15% and [15%] 30% funding
29 levels established under this paragraph not to exceed 40% of
30 the fund at the department's discretion.

1 [(6) Beginning fiscal year 2008-2009, through and
2 including fiscal year 2010-2011, the department may expend up
3 to \$100,000 annually from the fund for a nitrogen tire
4 inflation grant program. The department may award matching
5 grants of up to 50% of the costs of purchasing and installing
6 a nitrogen tire inflation system to automotive service
7 providers who sell tires in this Commonwealth. Individual
8 grants may not exceed \$5,000 per nitrogen tire inflation
9 system. The department shall publish guidelines as necessary
10 to implement the provisions of this subsection and maintain a
11 registry of all grant recipients on the department's publicly
12 accessible World Wide Web site.]

13 (c) Grant program.--The department shall establish a formula
14 and method for the awarding of grants under the program. The
15 department also shall establish a method by which grant
16 applications will be prioritized. For grants under subsection
17 (b)(1)(ii), the department shall prioritize grant applications
18 according to, but not limited to, the following goals and
19 criteria:

20 [(1) The improvement of this Commonwealth's air quality.

21 (2) The fulfillment of the Commonwealth's
22 responsibilities under the Clean Air Act (69 Stat. 322, 42
23 U.S.C. § 7401 et seq.).

24 (3) The protection of this Commonwealth's natural
25 environment, including land, water and wildlife.

26 (4) The advancement of economic development in this
27 Commonwealth and the promotion of this Commonwealth's
28 indigenous resources.]

29 (5) The reduction of this Commonwealth's dependence on
30 imported crude oil and other petroleum products.

1 [(6) The most cost-effective use of private and public
2 funding.

3 (7) The transfer and commercialization of innovative
4 alternative energy technologies.]

5 (8) The total estimated gasoline gallon equivalent of
6 compressed natural gas usage.

7 (9) Amount of private capital invested as a percentage
8 of the total compressed natural gas conversion project cost
9 including refueling infrastructure.

10 (10) Whether the project provides for public access to
11 compressed natural gas refueling infrastructure.

12 (c.1) Appeal process.--Applicants that are not awarded
13 grants under this act shall not have the right to a hearing or
14 the issuance of an adjudication under section 4 of the act of
15 July 13, 1988 (P.L.530, No.94), known as the Environmental
16 Hearing Board Act, regarding the department's decision.

17 [(d) Rebate program.--There is hereby established a rebate
18 program within the department for individuals residing in this
19 Commonwealth who purchase a hybrid, plug-in hybrid or other
20 alternative fuel vehicle as follows:

21 (1) The department shall establish a formula and method
22 for the awarding of rebates under this program. The
23 department shall publish this information yearly in the
24 Pennsylvania Bulletin and may also publish this information
25 on the department's World Wide Web site. Rebates shall be
26 provided to the extent that funding is available for this
27 purpose. To the extent that applications for rebates exceed
28 the available funds for this program, the department may
29 award rebates on a pro rata basis.

30 (2) A request for a rebate must be submitted to the

1 department no later than six months after the purchase date
2 of the hybrid, plug-in hybrid or other alternative fuel
3 vehicle, in a form and manner prescribed by the department.
4 The department shall provide an application form to an
5 individual upon request, and the department may make the
6 application form on its World Wide Web site or through the
7 place of purchase of a hybrid, plug-in hybrid or other
8 alternative fuel vehicle.

9 (3) Applicants shall provide a copy of a valid
10 Pennsylvania vehicle registration and proof of purchase when
11 making a request for a rebate under this program.

12 Section 3.1. Biomass-based diesel production incentives.

13 (a) Incentives.--The department shall expend up to
14 \$5,300,000 annually from the fund unless the balance of the fund
15 is less than \$5,300,000 on the first day of the fiscal year, in
16 which case the department shall expend up to one-third of the
17 balance of the fund:

18 (1) As a production incentive of 75¢ per gallon for
19 biomass-based diesel produced in this Commonwealth beginning
20 July 1, 2008, and sold in this Commonwealth for commercial
21 transportation purposes or for residential heating. In the
22 case of biomass-based diesel, this incentive shall be
23 available through June 30, 2011. If the total monthly amount
24 of production incentives applied for by all qualified
25 applicants exceeds the remaining amount available for those
26 incentives, then the incentive shall be prorated among all
27 qualified applicants. An individual qualified biomass-based
28 diesel producer shall not receive more than \$1,900,000 in
29 incentives in any one fiscal year. For purposes of this
30 section, all facilities under common ownership shall be

1 counted as a single facility.

2 (2) A producer of biomass-based diesel in this
3 Commonwealth shall file for the production incentive on a
4 monthly basis on a form furnished by the department. The form
5 shall require the producer to submit proof of production of
6 the biomass-based diesel and the number of gallons sold
7 during the previous calendar month and such other information
8 as the department deems appropriate. A biomass-based diesel
9 producer shall also submit a certificate of analysis from an
10 accredited laboratory for every 500,000 gallons of biomass-
11 based diesel produced showing that the biodiesel meets the
12 ASTM Specification D6751, Standard Specification for
13 Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels
14 or its successor standard.

15 (b) Exception.--A qualified biomass-based diesel producer
16 who receives an incentive under this section shall not be
17 eligible to receive an incentive under section 3.]

18 Section 4. This act shall take effect in 60 days.