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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 22

Special Session No. 1 of  
2007-2008

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INTRODUCED BY TOMLINSON, M. WHITE, PILEGGI, WASHINGTON,  
RAFFERTY, ERICKSON, GORDNER, STOUT, BOSCOLA AND PIPPY,  
OCTOBER 16, 2007

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JULY 2, 2008

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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 definitions and for the Alternative  
10 Fuels Incentive Fund; and providing for biodiesel production  
11 incentives.

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

14 Section 1. Section 2 of the act of November 29, 2004  
15 (P.L.1376, No.178), known as the Alternative Fuels Incentive  
16 Act, is amended by adding definitions to read:

17 Section 2. Definitions.

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

21 "Accredited laboratory." A laboratory accredited by the

1 American Society for Testing and Materials International.

2 \* \* \*

3 "BIOMASS-BASED DIESEL." THE TERM SHALL HAVE THE MEANING SET <—  
4 FORTH IN SECTION 211(O)(1)(D) OF THE CLEAN AIR ACT (69 STAT.  
5 322, 121 STAT. 1519, 42 U.S.C. § 7545(O)(1)(D)) AND SHALL MEET  
6 THE ASTM SPECIFICATION D6751 STANDARD SPECIFICATION FOR  
7 BIODIESEL FUEL BLEND STOCK (B100) FOR MIDDLE DISTILLATE FUELS OR  
8 ITS SUCCESSOR STANDARD.

9 \* \* \*

10 "Qualified biodiesel producer." A producer of biodiesel who  
11 has its principal place of business and facility for the  
12 production of biodiesel fuel in this Commonwealth and is at  
13 least 51% owned or operated by persons with a permanent  
14 residence in this Commonwealth and who has complied with the  
15 requirements of section 3.1(b).

16 "QUALIFIED BIOMASS-BASED DIESEL PRODUCER." A PRODUCER OF <—  
17 25,000 GALLONS OR MORE OF BIOMASS-BASED DIESEL PER MONTH WITH  
18 ITS PRINCIPAL PRODUCTION FACILITY IN THIS COMMONWEALTH THAT HAS  
19 COMPLIED WITH THE REQUIREMENTS OF SECTION 3.1(A)(II) AND THAT IS  
20 IN COMPLIANCE WITH ALL LAWS AND CURRENT IN ALL OBLIGATIONS TO  
21 THE COMMONWEALTH.

22 \* \* \*

23 Section 2. Section 3(b) and (d) of the act are amended to  
24 read:

25 Section 3. Alternative Fuels Incentive Fund.

26 \* \* \*

27 (b) Expenditures.--

28 (1) Moneys from the fund shall be expended by the  
29 department:

30 (i) As grants to school districts, municipal

1 authorities, political subdivisions, nonprofit entities,  
2 corporations, limited liability companies or partnerships  
3 incorporated or registered in this Commonwealth to  
4 provide funding for:

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

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

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

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

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

22 (iii) As grants to school districts, municipal  
23 authorities, political subdivisions and nonprofit  
24 entities to cover the incremental cost to purchase  
25 biofuel.

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

29 (2) Moneys from the fund may be expended by the  
30 department as reimbursement of up to [5¢] 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 and the financial solvency  
10 of the fund. At no time shall the grant or rebate funding  
11 amount be below the amounts specified in this section.

12 (4) No more than [2%] ~~1%~~ 1.5% of the fund may be used to <—  
13 administer the provisions of this act.

14 (4.1) No more than ~~1%~~ 0.5% of the fund may be used to <—  
15 educate and do outreach to car dealers and consumers about  
16 this program.

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

29 (6) Beginning Fiscal Year 2008-2009, through and  
30 including Fiscal Year 2010-2011, the department may expend up

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

11 \* \* \*

12 (d) Rebate program.--There is hereby established a rebate  
13 program within the department for individuals residing in this  
14 Commonwealth who purchase a hybrid, ~~biodiesel~~ PLUG-IN HYBRID or <—  
15 other alternative fuel vehicle[.] as follows: <—

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

25 (2) A request for a rebate must be submitted to the  
26 department no later than six months after the purchase date  
27 of the hybrid, PLUG-IN HYBRID OR OTHER ALTERNATIVE FUEL <—  
28 vehicle, in a form and manner prescribed by the department.  
29 The department shall provide an application form to an  
30 individual upon request, and the department may make the

1 application form on its World Wide Web site or through the  
2 place of purchase of [the hybrid] A HYBRID, PLUG-IN HYBRID OR <—  
3 OTHER ALTERNATIVE FUEL vehicle.

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

7 Section 3. The act is amended by adding a section to read:

8 Section 3.1. Biodiesel BIOMASS-BASED DIESEL production <—  
9 incentives.

10 (a) Incentives.--The department shall pay a qualified <—  
11 biodiesel producer an incentive for the production of biodiesel  
12 in the amount of 75¢ for each gallon of biodiesel sold by the  
13 producer for commercial purposes. Qualified biodiesel producers  
14 may receive the incentive for no more than seven million gallons  
15 per calendar year. Individual producers shall not receive more  
16 than \$2,000,000 in incentives annually. The incentives shall be  
17 paid until December 31, 2010.

18 (b) Application. A qualified biodiesel producer shall file  
19 for the biodiesel production incentive on a monthly basis on a  
20 form furnished by the department. The form shall require the  
21 qualified biodiesel producer to submit proof of production of  
22 the biodiesel and the number of gallons sold during the previous  
23 calendar month. A producer shall also submit a certificate of  
24 analysis from an accredited laboratory for every 500,000 gallons  
25 of biodiesel produced showing that the biodiesel meets the  
26 American Society for Testing and Materials D-6751 standard.

27 EXPEND UP TO \$5,300,000 ANNUALLY FROM THE FUND UNLESS THE <—  
28 BALANCE OF THE FUND IS LESS THAN \$5,300,000 ON THE FIRST DAY OF  
29 THE FISCAL YEAR, IN WHICH CASE THE DEPARTMENT SHALL EXPEND UP TO  
30 ONE-THIRD OF THE BALANCE OF THE FUND:

1           (1) AS A PRODUCTION INCENTIVE OF 75¢ PER GALLON FOR  
2           BIOMASS-BASED DIESEL PRODUCED IN THIS COMMONWEALTH BEGINNING  
3           JULY 1, 2008, AND SOLD IN THIS COMMONWEALTH FOR COMMERCIAL  
4           TRANSPORTATION PURPOSES OR FOR RESIDENTIAL HEATING. IN THE  
5           CASE OF BIOMASS-BASED DIESEL, THIS INCENTIVE SHALL BE  
6           AVAILABLE THROUGH JUNE 30, 2011. IF THE TOTAL MONTHLY AMOUNT  
7           OF PRODUCTION INCENTIVES APPLIED FOR BY ALL QUALIFIED  
8           APPLICANTS EXCEEDS THE REMAINING AMOUNT AVAILABLE FOR THOSE  
9           INCENTIVES, THEN THE INCENTIVE SHALL BE PRORATED AMONG ALL  
10           QUALIFIED APPLICANTS. AN INDIVIDUAL QUALIFIED BIOMASS-BASED  
11           DIESEL PRODUCER SHALL NOT RECEIVE MORE THAN \$1,900,000 IN  
12           INCENTIVES IN ANY ONE FISCAL YEAR. FOR PURPOSES OF THIS  
13           SECTION, ALL FACILITIES UNDER COMMON OWNERSHIP SHALL BE  
14           COUNTED AS A SINGLE FACILITY.

15           (2) A PRODUCER OF BIOMASS-BASED DIESEL IN THIS  
16           COMMONWEALTH SHALL FILE FOR THE PRODUCTION INCENTIVE ON A  
17           MONTHLY BASIS ON A FORM FURNISHED BY THE DEPARTMENT. THE FORM  
18           SHALL REQUIRE THE PRODUCER TO SUBMIT PROOF OF PRODUCTION OF  
19           THE BIOMASS-BASED DIESEL AND THE NUMBER OF GALLONS SOLD  
20           DURING THE PREVIOUS CALENDAR MONTH AND SUCH OTHER INFORMATION  
21           AS THE DEPARTMENT DEEMS APPROPRIATE. A BIOMASS-BASED DIESEL  
22           PRODUCER SHALL ALSO SUBMIT A CERTIFICATE OF ANALYSIS FROM AN  
23           ACCREDITED LABORATORY FOR EVERY 500,000 GALLONS OF BIOMASS-  
24           BASED DIESEL PRODUCED SHOWING THAT THE BIODIESEL MEETS THE  
25           ASTM SPECIFICATION D6751, STANDARD SPECIFICATION FOR  
26           BIODIESEL FUEL BLEND STOCK (B100) FOR MIDDLE DISTILLATE FUELS  
27           OR ITS SUCCESSOR STANDARD.

28           ~~(e)~~ (B) Exception.--A qualified biodiesel producer who  
29           receives an incentive under this section shall not be eligible  
30           to receive an incentive under section 3.

<—

1       Section 4.   This act shall take effect as follows:

2           (1)   The amendment or addition of sections 2 and 3.1 of  
3       the act shall take effect January 1, 2008, or immediately,  
4       whichever is later.

5           (2)   This section shall take effect immediately.

6           (3)   The remainder of this act shall take effect in 60  
7       days.