

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 120 Session of
2003

INTRODUCED BY BARD, BUNT, HERMAN, LEVDANSKY, HENNESSEY, BALDWIN,
CREIGHTON, CURRY, DALEY, FAIRCHILD, GEORGE, HORSEY, LEACH,
MANN, R. MILLER, MUNDY, PAYNE, ROSS, SAYLOR, SCHRODER,
SEMMELE, TANGRETTI, THOMAS, TIGUE, WRIGHT, YOUNGBLOOD AND ZUG,
FEBRUARY 10, 2003

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 10, 2003

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for alternative fuels
3 definitions, for the Alternative Fuels Incentive Grant Fund,
4 for reports and for appropriation to the Department of
5 Environmental Protection; providing for allocation from the
6 Oil and Gas Lease Fund and for the Alternative Fuel
7 Production Grant Program; and providing for a moratorium on
8 alternative fuels tax.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 7201, 7202, 7203 and 7204 of Title 75 of
12 the Pennsylvania Consolidated Statutes are amended to read:

13 § 7201. Definitions.

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

17 "Alcohols." Fuels composed of 85% ethanol or methanol and
18 15% gasoline.

19 ["Alternative fuels." Motor vehicle fuels and fuel systems

1 which when compared to conventional gasoline or reformulated
2 gasoline, will result in lower emissions of oxides of nitrogen,
3 volatile organic compounds, carbon monoxide or particulates or
4 any combination thereof. These shall include compressed natural
5 gas (CNG), liquified natural gas (LNG), liquid propane gas
6 (LPG), alcohols (ethanol - e85 and methanol - m85), hydrogen,
7 hythane (a combination of CNG and hydrogen) and electricity.]

8 "Alternative fuel." A motor vehicle fuel which, when
9 compared to conventional gasoline or reformulated gasoline, will
10 result in lower emissions of oxides of nitrogen (NOx), volatile
11 organic compounds (VOC), carbon monoxide (CO), particulates or
12 any combination thereof. These include compressed natural gas
13 (CNG), liquified natural gas (LNG), liquid petroleum or propane
14 gas (LPG), alcohols, hydrogen, hythane (H2 and CNG),
15 electricity, coal-derived liquid fuels, fuels derived from
16 biological materials and other fuels that the Secretary of
17 Energy determines by rule as meeting the requirements of section
18 301 of the Energy Policy Act of 1992 (Public Law 102-486, 42
19 U.S.C. § 13211 (2)).

20 "Alternative fueled hybrid vehicle." A vehicle that uses an
21 alternative fuel to produce electricity, which in turn powers an
22 electric drive motor for vehicle propulsion.

23 "Bi-fuel" or "dual-fuel." Vehicles that operate on an
24 alternative fuel and gasoline or an alternative fuel and diesel
25 fuel.

26 "Dedicated alternative fuel vehicle." A vehicle which runs
27 exclusively on an alternative fuel. This term includes original
28 equipment manufacturer vehicles.

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

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

4 "Fund." The Alternative Fuels Incentive Grant Fund.

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

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

19 "Gasoline fueled hybrid vehicle." A vehicle that uses
20 gasoline to produce electricity, which in turn powers an
21 electric drive motor for vehicle propulsion.

22 "Incremental cost." The difference between the purchase
23 price of [a dedicated] an alternative fuel vehicle and the
24 purchase price of a gasoline-only fueled vehicle.

25 "OEM." The original equipment manufacturer.

26 "OEM vehicle." A vehicle originally manufactured to run
27 exclusively on an alternative fuel.

28 "PEO." The Pennsylvania Energy Office.

29 "Retrofit." Installing an alternative fuel system into an
30 existing gasoline fueled vehicle.

1 § 7202. Alternative Fuels Incentive Grant Fund.

2 (a) Establishment.--There is hereby established a separate
3 account in the State Treasury to be known as the Alternative
4 Fuels Incentive Grant Fund. This fund shall be administered by
5 the [PEO] department. The fund shall consist of that portion of
6 revenues collected under the utilities gross receipts tax as set
7 forth in section 7204 (relating to appropriation).

8 (b) Expenditures.--

9 (1) Moneys from the fund shall be expended by the [PEO]
10 department as grants to school districts, municipal
11 authorities, political subdivisions, nonprofit entities and
12 corporations or partnerships incorporated or registered in
13 this Commonwealth and to residents of this Commonwealth to
14 meet 60% of the expenses relative to retrofitting vehicles to
15 operate on alternative fuels as either a bi-fuel, dual-fuel
16 or dedicated vehicle, including the incremental cost of
17 purchase of dedicated vehicles and to meet 60% of the cost to
18 install the necessary fueling equipment. Two years after the
19 effective date of this chapter and for every two-year period
20 thereafter, the grant funding amount offered by the [PEO]
21 department shall be reduced 10% until it reaches 20% of the
22 retrofit cost where it will remain until economic or other
23 conditions warrant it be changed.

24 (1.1) Moneys shall be expended to meet:

25 (i) 90% of the incremental cost of purchase of a
26 dedicated alternative fuel vehicle or an alternative
27 fueled hybrid vehicle.

28 (ii) 90% of the expenses relating to retrofitting a
29 vehicle to operate as a dedicated alternative fuel
30 vehicle.

1 (iii) 70% of the incremental cost of purchase of a
2 dual-fuel or gasoline fueled hybrid vehicle.

3 (iv) 70% of the expenses relating to retrofitting a
4 vehicle to operate as a dual-fuel vehicle.

5 (v) 70% of the cost to install the necessary
6 refueling equipment at a facility owned and operated by a
7 school district, municipal authority or political
8 subdivision.

9 (vi) 70% of the cost to install the necessary
10 refueling equipment at a facility owned and operated by a
11 corporation, partnership or nonprofit entity that permits
12 public access to the facility.

13 (vii) 50% of the cost to install the necessary
14 refueling equipment at a facility owned and operated by a
15 corporation, partnership or nonprofit entity which does
16 not permit public access to the facility.

17 (1.2) Moneys shall be expended as grants to institutions
18 of postsecondary education approved by the department to meet
19 10% of the expenses relative to establishing alternative fuel
20 vehicle training centers with membership in the National
21 Alternative Fuels Training Consortium.

22 (1.3) Moneys shall be expended as grants to qualified
23 alternative fuel producers as provided for in section 7206
24 (relating to Alternative Fuel Production Grant Program).

25 (2) No more than 5% of the fund may be used to
26 administer the provisions of this chapter.

27 (3) No more than 10% of the fund may go to any one
28 school district, municipal authority, political subdivision,
29 nonprofit entity, corporation or partnership in any one year,
30 provided that the total amount of grants made to grant

recipients within a political subdivision in a year shall not exceed 15% of the fund.

(4) Moneys shall be expended only to the extent that moneys are available in the fund.

(c) Regulatory powers.--The [PEO] department shall promulgate regulations necessary to carry out the provisions of this chapter which shall include a method by which grant applications will be prioritized according but not limited to the following goals and/or criteria:

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

(2) The fulfillment of the State's requirements under the Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.).

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

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

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

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

(7) The transfer and commercialization of innovative energy technologies.

§ 7203. Reports.

[(a) Annual report.--]The [PEO] department shall annually make a report to the General Assembly on the activities undertaken pursuant to this chapter, including the number of grants awarded and other expenditures from the fund.

[(b) Special report.--The Department of Revenue, in

1 consultation with the PEO and the Department of Transportation,
2 shall submit a report to the General Assembly within two years
3 after the effective date of this chapter which analyzes the
4 impact of alternatively fueled vehicles on revenue from State
5 taxes on motor fuels at the time and projected five years into
6 the future and make recommendations on mechanisms to replace any
7 revenue losses.]

8 § 7204. Appropriation.

9 There is hereby allocated from the General Fund, on an annual
10 basis, an amount equal to 0.25 mills of the utilities' gross
11 receipts tax collected during each fiscal year under Article XI
12 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
13 Reform Code of 1971. All moneys in this fund are hereby
14 appropriated to the [Pennsylvania Energy Office] Department of
15 Environmental Protection on a continuing basis to carry out this
16 chapter.

17 Section 2. Title 75 is amended by adding sections to read:

18 § 7204.1. Special allocation.

19 Notwithstanding any other provision of law to the contrary,
20 there is hereby allocated from the Oil and Gas Lease Fund to the
21 Alternative Fuels Incentive Grant Fund an amount equal to 5% of
22 the rents and royalties from natural gas drilling on State-owned
23 lands occurring on or after July 1, 2002.

24 § 7206. Alternative Fuel Production Grant Program.

25 (a) Establishment.--There is hereby established the
26 Alternative Fuel Production Grant Program.

27 (b) Application.--Any qualified alternative fuel producer
28 wishing to obtain a grant shall submit a written application to
29 the department not later than 15 days prior to the first day of
30 the month for which the grant is sought. The application shall

1 include:

2 (1) The location of the Pennsylvania qualified
3 alternative fuel producer.

4 (2) The average number of citizens of Pennsylvania
5 employed by the qualified alternative fuel producer in the
6 preceding quarter, if applicable.

7 (3) The number of gallons of qualified alternative fuel
8 the producer expects to manufacture during the month for
9 which the grant is applied.

10 (4) The name and address of the surety company and
11 amount of bond to be posted pursuant to subsection (d).

12 (5) Any other information deemed necessary by the
13 department to adequately ensure that alternative fuel
14 production grants shall be made only to Pennsylvania
15 qualified alternative fuel producers.

16 (c) Grants.--A qualified alternative fuel producer shall be
17 eligible for a monthly grant from the fund for a period of time
18 not exceeding 60 months. Each qualified alternative fuel
19 producer shall be eligible for a total grant in any calendar
20 year equal to 20¢ per gallon for 12,500,000 gallons of qualified
21 alternative fuel in the calendar year plus 5¢ per gallon for the
22 next 12,500,000 gallons of qualified alternative fuel in the
23 calendar year. All such qualified alternative fuel produced by a
24 Pennsylvania qualified alternative fuel producer in excess of
25 25,000,000 gallons shall not be applied to the computation of a
26 grant pursuant to this section. The department shall pay all
27 grants for a particular month by the 15th day after receipt and
28 approval of the application. If actual production of qualified
29 alternative fuel during a particular month either exceeds or is
30 less than that estimated by a Pennsylvania qualified alternative

1 fuel producer, the department shall adjust the subsequent
2 monthly grant by paying an additional amount or subtracting the
3 amount in deficiency by using the calculation described in this
4 section.

5 (d) Regulations.--The department shall promulgate rules and
6 regulations necessary for the administration of this section.
7 The department shall also establish procedures for bonding
8 Pennsylvania qualified alternative fuel producers. Each
9 Pennsylvania alternative fuel producer who attempts to obtain
10 moneys pursuant to this section shall be bonded in an amount not
11 to exceed the estimated monthly grant to be issued to such
12 Pennsylvania qualified alternative fuel producer.

13 (e) Decision in writing.--The decision of the department to
14 approve or disapprove an application pursuant to subsection (c)
15 shall be in writing, and, if it approves the application, it
16 shall state the maximum amount of the grant. A copy of the
17 decision of the department shall be transmitted to the Governor.

18 (f) Definition.--As used in this section, the term
19 "qualified alternative fuel producer" means any producer of an
20 alternative fuel whose principal place of business and facility
21 for the production of an alternative fuel is located within this
22 Commonwealth and which has made formal application, posted a
23 bond and conformed to the requirements of this section.

24 Section 3. The definition of "alternative fuels" in section
25 9002 of Title 75 is amended to read:

26 § 9002. Definitions.

27 The following words and phrases when used in this chapter
28 shall have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 "Alternative [fuels." Natural gas, compressed natural gas

1 (CNG), liquified natural gas (LNG), liquid propane gas and
2 liquified petroleum gas (LPG), alcohols, gasoline-alcohol
3 mixtures containing at least 85% alcohol by volume, hydrogen,
4 hythane, electricity and any other fuel used to propel motor
5 vehicles on the public highways which is not taxable as fuels or
6 liquid fuels under this chapter.] fuel." A motor vehicle fuel,
7 which, when compared to conventional gasoline or reformulated
8 gasoline, will result in lower emissions of oxides of nitrogen
9 (NOx), volatile organic compounds (VOC), carbon monoxide (CO),
10 particulates or any combination thereof. These include
11 compressed natural gas (CNG), liquified natural gas (LNG),
12 liquid petroleum or propane gas (LPG), alcohols, hydrogen,
13 hythane (H2 and CNG), electricity, coal-derived liquid fuels,
14 fuels derived from biological materials and other fuels that the
15 Secretary of Energy determines by rule as meeting the
16 requirements of section 301 of the Energy Policy Act of 1992
17 (Public Law 102-486, 42 U.S.C. § 13211(2)).

18 * * *

19 Section 4. Section 9004(d) of Title 75 is amended to read:
20 § 9004. Imposition of tax, exemptions and deductions.

21 * * *

22 (d) Alternative fuels tax.--

23 (1) A tax is hereby imposed upon alternative fuels used
24 to propel vehicles of any kind or character on the public
25 highways. The rate of tax applicable to each alternative fuel
26 shall be computed by the department on a gallon equivalent
27 basis and shall be published as necessary by notice in the
28 Pennsylvania Bulletin.

29 (2) The tax imposed in this section upon alternative
30 fuels shall be reported and paid to the department by each

1 alternative fuel dealer-user rather than by distributors
2 under this chapter similar to the manner in which
3 distributors are required to report and pay the tax on liquid
4 fuels and fuels, and the licensing and bonding provisions of
5 this chapter shall be applicable to alternative fuel dealer-
6 users. The department may permit alternative fuel dealer-
7 users to report the tax due for reporting periods greater
8 than one month up to an annual basis provided the tax is
9 prepaid on the estimated amount of alternative fuel to be
10 used in such extended period. The bonding requirements may be
11 waived by the department where the tax has been prepaid.

12 (3) The tax imposed under this subsection shall not
13 apply to and is hereby waived for the period beginning
14 January 1, 2003, and ending December 31, 2012.

15 * * *

16 Section 5. This act shall take effect immediately.