

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3049 Session of
2006

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E. Z. TAYLOR, WATSON, YOUNGBLOOD, YUDICHAK, HARHART AND
SEMMELE, OCTOBER 20, 2006

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 20, 2006

AN ACT

1 Authorizing certain tax credits for qualified alternative fuel
2 distributors; and imposing powers and duties on the
3 Department of Revenue.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Alternative
8 Fuel Deployment Act.

9 Section 2. Legislative findings.

10 The General Assembly finds and declares that:

11 (1) There is an increasing need for the development and
12 deployment of alternative forms of transportation fuels.

13 (2) It is the intent of this act to assist in the
14 establishment of a balanced portfolio of renewable energy
15 technologies while adopting a strategy to fulfill the
16 Commonwealth's long-term needs and goals for both energy and

1 the environment.

2 (3) It is the intent of this act to encourage the
3 deployment of alternative fuels to the greatest extent
4 practical throughout this Commonwealth and to provide
5 incentives to businesses to encourage greater availability of
6 these fuels to the motoring public.

7 Section 3. Definitions.

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

11 "Alternative fuel." A motor vehicle fuel that, when compared
12 to conventional or reformulated gasoline, results in lower
13 emissions of oxides of nitrogen (NOx), volatile organic
14 compounds (VOC), carbon monoxide (CO), particulates or any
15 combination thereof. This term includes, but is not limited to:
16 compressed natural gas (CNG), liquefied natural gas (LNG),
17 liquid petroleum or propane gas (LPG), ethanol blended as E85,
18 methanol blended as M85, hydrogen, hythane, any combination of
19 compressed natural gas and hydrogen, electricity, coal-derived
20 liquid fuels and other fuels determined by rule of the Secretary
21 of the United States Department of Energy under the definition
22 of "alternative fuel" in section 301 of the Energy Policy Act of
23 1992 (Public Law 102-486, 42 U.S.C. § 13211). The term shall
24 also include biofuels.

25 "Biofuel." A fuel derived from alcohol, ether, ester and
26 other chemicals made from cellulosic biomass, including, but not
27 limited to, herbaceous and woody plants and agricultural and
28 forestry residues. This term also includes a fuel derived from
29 vegetable oils or animal fats designated B100 that meets the
30 American Society of Testing and Materials Specification DG751,

1 and B20, and that is comprised of 20% biodiesel with 80% diesel
2 fuel.

3 "Department." The Department of Revenue of the Commonwealth.

4 "Pass-through entity." A partnership as defined in section
5 301 (n.0) or a Pennsylvania S corporation as defined in section
6 301(n.1) of the act of March 4, 1971 (P.L.6, No.2), known as the
7 Tax Reform Code of 1971.

8 "Person." An individual resident of this Commonwealth.

9 "Qualified alternative fuel distribution expense." The cost
10 of capital equipment directly related to the distribution,
11 dispensing or storing of alternative fuel.

12 "Qualified alternative fuel distributor." A commercial
13 facility that distributes or dispenses alternative fuel to the
14 motoring public.

15 "Qualified business." A partnership, association, company,
16 corporation, joint venture or other business entity qualified
17 pursuant to section 5.

18 "Qualified tax liability." The liability for taxes imposed
19 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971. The term does not
21 include any tax withheld by an employer from an employee under
22 Article III of the Tax Reform Code of 1971.

23 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971.

25 "Taxpayer." An entity subject to tax under Article III, IV
26 or VI of the act of March 4, 1971 (P.L.6, No.2), known as the
27 Tax Reform Code of 1971. The term includes a shareholder of a
28 Pennsylvania S corporation.

29 Section 4. Establishment of program.

30 (a) General rule.--A qualified business shall be eligible to

1 receive the tax credit authorized under section 5.

2 (b) Administration and regulations.--The department shall
3 administer this act and cooperate with the Department of
4 Environmental Protection. The Department of Environmental
5 Protection shall provide assistance to the department in
6 identifying specific types of alternative fuel and the
7 appropriate alternative fuel dispensing, deployment and storage
8 equipment and in providing other information that may be
9 necessary to ensure the proper administration of this act.

10 (c) Qualified alternative fuel distributor designation.--The
11 regulations established by the department shall provide for the
12 designation of a qualified alternative fuel distributor. The
13 department shall, in cooperation with the Department of
14 Environmental Protection, develop criteria to establish
15 eligibility as a qualified alternative fuel distributor. The
16 criteria shall include, but not be limited to, a provision
17 mandating that equipment used to store, dispense or distribute
18 alternative fuel be clearly identified as associated with
19 renewable fuel.

20 Section 5. Credit for qualified alternative fuel distribution
21 expense.

22 (a) General rule.--A qualified alternative fuel distributor
23 who incurs a qualified alternative fuel distribution expense in
24 a calendar year may apply for a tax credit as provided in this
25 section. The tax credit shall be limited to the cost of the
26 capital equipment including pumps, storage tanks and related
27 equipment used to store, distribute or dispense the alternative
28 fuel. A business that is qualified under this section shall be
29 eligible for an alternative fuel distributor tax credit
30 authorized under this act. By September 15, a qualified

1 alternative fuel distributor must submit an application to the
2 department for qualified expenses incurred in the prior calendar
3 year.

4 (b) Amount.--A qualified business shall be eligible under
5 Article III, IV and VI of the Tax Reform Code of 1971 for an
6 alternative fuel distribution tax credit equal to 25% of a
7 qualified alternative fuel distribution expense.

8 (c) Notification to taxpayer.--By December 15 of the
9 calendar year following the close of the taxable year during
10 which a qualified alternative fuel distributor expense was
11 incurred, the department shall notify the qualified alternative
12 fuel distributor of the amount of the qualified alternative fuel
13 distributor's tax credit approved by the department.

14 (d) Limitations on tax credits.--A taxpayer shall be subject
15 to the following limitations in the application of the tax
16 credits:

17 (1) A qualified alternative fuel distributor shall
18 receive the alternative fuel distribution tax credits
19 authorized under section 7 for a period not to exceed two
20 years beginning with the taxable year in which the
21 alternative fuel dispensing equipment was placed in service.
22 The credits shall expire on the date of expiration required
23 by this act.

24 (2) The tax credit shall be limited to the cost of the
25 capital equipment, including pumps, storage tanks and related
26 equipment used to store, distribute or dispense the
27 alternative fuel.

28 Section 6. Carryover, carry back, refund and assignment of
29 credit.

30 (a) General rule.--The amount of the alternative fuel

1 distribution tax credit that a qualified business entity may use
2 against any tax under Article III, IV or VI of the Tax Reform
3 Code of 1971 during any year may not exceed 25% of the qualified
4 tax liability for that taxable year. If the qualified business
5 entity cannot use the entire amount of the credit for the
6 taxable year in which the credit is first approved, the excess
7 may be carried over one succeeding taxable year and used as a
8 credit against any tax under Article III, IV or VI of the Tax
9 Reform Code of 1971 of the qualified alternative fuel
10 distributor for that taxable year. In the event that the
11 alternative fuel distribution tax credit is carried over to a
12 succeeding taxable year, it shall be reduced by the amount that
13 was used as a credit during the immediately preceding taxable
14 year.

15 (b) Application.--An alternative fuel distribution tax
16 credit approved by the department for a qualified alternative
17 fuel distribution expense in a taxable year first shall be
18 applied against the qualified alternative fuel distributor's tax
19 liability for the current taxable year as of the date on which
20 the credit was approved.

21 (c) Restriction.--A qualified business entity may not carry
22 back, obtain a refund of or assign any unused alternative fuel
23 distribution tax credit.

24 Section 7. Limitation on credits.

25 (a) General rule.--The total amount of credits approved by
26 the department shall not exceed \$15,000,000 in any one fiscal
27 year.

28 (b) Calculation.--If the total amount of alternative fuel
29 distribution tax credits applied for by all qualified
30 alternative fuel distributors exceeds the amount allocated for

1 those tax credits, then the alternative fuel distribution tax
2 credit to be received by each applicant shall be the product of
3 the allocated amount multiplied by the quotient of the tax
4 credit applied for by the applicant divided by the total of all
5 tax credits applied for by all applicants, the algebraic
6 equivalent of which is: taxpayer's tax credit = amount allocated
7 for those credits x tax credit applied for by the
8 applicant/total of all tax credits applied for by all
9 applicants.

10 Section 8. Pass-through entity.

11 (a) General rule.--If a pass-through entity has any unused
12 tax credit under section 7, the entity may elect in writing,
13 according to the department's procedures, to transfer all or a
14 portion of the tax credit to shareholders, members or partners
15 in proportion to the shares of the entity's distributive income
16 to which the shareholder, member or partner is entitled.

17 (b) Independent from other tax credits.--

18 (1) The tax credit provided under subsection (a) is in
19 addition to any tax credit to which a shareholder, member or
20 partner of a pass-through entity is otherwise entitled under
21 the Tax Reform Code of 1971.

22 (2) A pass-through entity and a shareholder, member or
23 partner of a pass-through entity may not claim a credit under
24 this act for the same qualified expense.

25 (c) Claim of tax credit.--A shareholder, member or partner
26 of a pass-through entity to whom credit is transferred under
27 subsection (a) must immediately claim the credit in the taxable
28 year in which the transfer is made. The shareholder, member or
29 partner may not carry forward, carry back, obtain a refund of or
30 sell or assign the credit.

1 Section 9. Report.

2 The department shall annually make a report to the
3 Environmental Resources and Energy Committee of the Senate and
4 the Environmental Resources and Energy Committee of the House of
5 Representatives on the activities undertaken pursuant to this
6 act, including, but not limited to:

7 (1) The number and amount of tax credits provided.

8 (2) The number and description of the business entities
9 receiving the tax credits.

10 (3) The total cost of the equipment investment against
11 which the tax credits were provided.

12 Section 10. Applicability.

13 For purposes of this act, the tax credit shall be applicable
14 beginning with the taxable years beginning after December 31,
15 2006.

16 Section 11. Effective date.

17 This act shall take effect in 60 days.