

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 301 Session of 2013

INTRODUCED BY SAYLOR, AUMENT, BAKER, CAUSER, COHEN, DENLINGER, EVANKOVICH, CUTLER, EVERETT, GROVE, C. HARRIS, HEFFLEY, HESS, HICKERNELL, KAUFFMAN, F. KELLER, M. K. KELLER, KORTZ, LUCAS, MARSHALL, MICOZZIE, MILLER, MOUL, PICKETT, QUINN, RAPP, ROCK, SIMMONS, WATSON, GABLER, MURT AND GIBBONS, FEBRUARY 5, 2013

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 9, 2013

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for a natural gas fleet vehicle tax
11 credit; and imposing penalties.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

ARTICLE XVII-G.2

NATURAL GAS FLEET VEHICLE TAX CREDIT

19 Section 1701-G.2. Definitions.

20 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Applicant." A company which meets the eligibility
4 requirements for the tax credit issued under this article.

5 "Committee." The Natural Gas Fleet Vehicle Tax Credit
6 Committee.

7 "Company." An entity doing business in this Commonwealth
8 which owns five or more vehicles and which is subject to tax
9 under Article III, IV or VI. The term includes the shareholder
10 of a Pennsylvania S corporation that is eligible for the tax
11 credit provided under this article.

12 "Conversion plan." A natural gas conversion plan.

13 "Dedicated compressed natural gas vehicle." A vehicle that
14 is produced by an original equipment manufacturer or a small <--
15 volume manufacturer that operates on 90% or more compressed
16 natural gas fuel and 10% or less on gasoline or diesel fuel.
17 MANUFACTURED BY AN ORIGINAL EQUIPMENT MANUFACTURER OR ORIGINAL <--
18 AND THIRD PARTY EQUIPMENT MANUFACTURERS PROVIDED THAT THE THIRD
19 PARTY MANUFACTURERS PROVIDE THE PARTS OR SERVICES PRIOR TO THE
20 ORIGINAL SALE OF THE VEHICLE TO A PURCHASER AND THE VEHICLE
21 COMPONENTS, INCLUDING THE ALTERNATIVE FUEL SYSTEM, ARE COVERED
22 BY THE ORIGINAL EQUIPMENT MANUFACTURER OR UNDER SEPARATE
23 WARRANTIES.

24 "Dedicated liquefied natural gas vehicle." A vehicle that is <--
25 produced by an original equipment manufacturer or a small volume
26 manufacturer that operates on 90% or more liquefied natural gas
27 fuel and 10% or less on gasoline or diesel fuel. OPERATES ON 90% <--
28 OR MORE LIQUEFIED NATURAL GAS FUEL AND 10% OR LESS ON GASOLINE
29 OR DIESEL FUEL AND IS MANUFACTURED BY AN ORIGINAL EQUIPMENT
30 MANUFACTURER OR ORIGINAL AND THIRD PARTY EQUIPMENT MANUFACTURERS

1 PROVIDED THAT THE THIRD PARTY MANUFACTURERS PROVIDE THE PARTS OR
2 SERVICES PRIOR TO THE ORIGINAL SALE OF THE VEHICLE TO A
3 PURCHASER AND THE VEHICLE COMPONENTS, INCLUDING THE ALTERNATIVE
4 FUEL SYSTEM, ARE COVERED BY THE ORIGINAL EQUIPMENT MANUFACTURER
5 OR UNDER SEPARATE WARRANTIES.

6 "Department." The Department of Revenue COMMUNITY AND <--
7 ECONOMIC DEVELOPMENT of the Commonwealth.

8 "Fleet vehicle." A vehicle registered to a company.

9 "Incremental cost." The excess cost of a new natural gas
10 motor vehicle over the price for a gasoline or diesel fuel motor
11 vehicle of the same model. The term ~~includes~~ DOES NOT INCLUDE <--
12 the cost to retro-fit a vehicle to operate on natural gas.

13 "Natural gas conversion plan." A company's plan to convert
14 ~~existing fleet vehicles~~ ITS VEHICLE FLEET to compressed or <--
15 ~~liquid~~ LIQUEFIED natural gas-fueled vehicles by ~~converting~~ <--
16 ~~existing vehicles~~ or purchasing new natural gas-fueled vehicles.

17 "Natural gas fleet vehicle tax credit." Tax credits for
18 which the Department of Revenue has issued a certificate under
19 this article.

20 ~~"Secretary." The Secretary of Revenue of the Commonwealth.~~ <--

21 "Start date." The date on which the company may begin the
22 company's conversion plan to natural gas-fueled fleet vehicles
23 Section 1702-G.2. Eligibility.

24 (a) Demonstration.--In order to be eligible to receive a
25 natural gas fleet vehicle tax credit, a company must demonstrate
26 to the department the following:

27 (1) A comprehensive natural gas conversion plan of fleet
28 vehicles within four years of the start date.

29 (2) A natural gas conversion plan with financial
30 viability.

1 (3) A statement of the projected usage of natural gas
2 stated in gasoline gallon equivalents FOR COMPRESSED NATURAL <--
3 GAS VEHICLES AND DIESEL GALLON EQUIVALENTS FOR LIQUEFIED
4 NATURAL GAS VEHICLES accompanied by the methodology utilized.

5 (4) The intent to maintain operations in this
6 Commonwealth for a period of no less than five years from the
7 start date.

8 (5) Minimum fuel usage of 900 gasoline OR DIESEL gallon <--
9 equivalents per day. Fuel usage requirements may be met from
10 a single applicant or multiple companies under a single
11 application if:

12 (i) The companies have an agreement to utilize a
13 single natural gas fueling facility. <--

14 (ii) The companies demonstrate that the utilization
15 of ~~the single~~ A natural gas fueling facility would be at <--
16 a minimum level of 900 gasoline OR DIESEL gallon <--
17 equivalents per day or have an existing contract with a
18 third party fuel provider that is willing to construct
19 the station if the natural gas vehicle tax credit is
20 awarded.

21 (b) Eligible vehicle and retrofit types.--The following <--
22 shall constitute eligible vehicle and retrofit types under this
23 chapter:

24 (1) Dedicated compressed natural gas vehicles having a
25 gross vehicle weight rating of at least 14,000 pounds.

26 (2) Dedicated liquefied natural gas vehicles having a
27 gross vehicle weight rating of at least 14,000 pounds.

28 Section 1703-G.2. Application process.

29 (a) Application.--A company must complete and submit to the <--
30 department a natural gas fleet vehicle tax credit application. A <--

1 COMPANY MAY APPLY TO THE DEPARTMENT FOR A NATURAL GAS FLEET
2 VEHICLE TAX CREDIT UNDER THIS ARTICLE. THE APPLICATION MUST BE
3 ON THE FORM REQUIRED BY THE DEPARTMENT AND INCLUDE THE
4 DOCUMENTATION TO ESTABLISH ELIGIBILITY AS REQUIRED BY SECTION
5 1702-G.2.

6 (b) Natural Gas Fleet Vehicle Tax Credit Committee <--
7 establishment and duties.

8 (1) The Natural Gas Fleet Vehicle Tax Credit Committee
9 COMMITTEE.--THE NATURAL GAS FLEET VEHICLE TAX CREDIT <--
10 COMMITTEE is established and shall consist of members
11 designated by the following, except that none of the
12 following may be designees:

13 (i) The Secretary of Community and Economic <--
14 Development of the Commonwealth.

15 (ii) The Secretary of Transportation of the
16 Commonwealth.

17 (iii) The Secretary of Environmental Protection.

18 (iv) The secretary.

19 (v) The chairman of the Marcellus Shale Coalition.

20 (vi) The Executive Director of Associated Petroleum
21 Industries of Pennsylvania.

22 (2) Once applications have been filed with the
23 department, the committee shall review all applications, rank
24 applications according to projected gasoline gallon
25 equivalents of natural gas and recommend applications to the
26 department.

27 (1) THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT. <--

28 (2) THE SECRETARY OF TRANSPORTATION.

29 (3) THE SECRETARY OF ENVIRONMENTAL PROTECTION.

30 (4) THE SECRETARY OF REVENUE.

1 (5) THE CHAIRMAN OF THE MARCELLUS SHALE COALITION.

2 (6) THE EXECUTIVE DIRECTOR OF ASSOCIATED PETROLEUM
3 INDUSTRIES OF PENNSYLVANIA.

4 (C) APPLICATION PERIOD AND REVIEW.--THE DEPARTMENT SHALL
5 ESTABLISH APPLICATION PERIODS THAT MAY NOT EXCEED 90 DAYS. THE
6 APPLICATIONS RECEIVED DURING AN APPLICATION PERIOD SHALL BE
7 REVIEWED BY THE COMMITTEE AND RANKED BASED ON NATURAL GAS
8 UTILIZATION. THE COMMITTEE SHALL RECOMMEND APPLICATIONS TO THE
9 DEPARTMENT.

10 ~~(e)~~ (D) Approval.--Once applications are ranked by the <--
11 committee under subsection (b)(2) (C), the department shall MAY <--
12 approve the applications according to their discretion and
13 availability of natural gas fleet vehicle tax credits. The <--
14 department and the company shall execute a commitment letter
15 containing the following: NATURAL GAS FLEET VEHICLE TAX CREDITS. <--
16 APPLICATIONS THAT ARE NOT APPROVED MUST BE RETURNED TO THE
17 COMMITTEE FOR REVIEW DURING THE NEXT APPLICATION PERIOD.

18 (E) CONTRACT.--THE DEPARTMENT AND THE COMPANY SHALL EXECUTE
19 A CONTRACT CONTAINING THE FOLLOWING:

20 (1) A description of the natural gas conversion plan.

21 (2) The amount of private capital investment in the
22 natural gas conversion plan.

23 (3) A signed statement that the company intends to
24 complete its conversion plan and remain in this Commonwealth
25 for five years from the start date.

26 (4) Any other information as the department deems
27 appropriate.

28 ~~(d) Commitment letter. After a commitment letter has been~~ <--
29 ~~signed by the Commonwealth and the company, the company shall~~
30 ~~receive a natural gas fleet vehicle tax credit certificate and~~

1 filing information.

2 (F) CERTIFICATE.--UPON EXECUTION OF THE CONTRACT REQUIRED IN <--
3 SUBSECTION (E), THE DEPARTMENT SHALL AWARD THE COMPANY A NATURAL
4 GAS FLEET VEHICLE TAX CREDIT AND ISSUE THE COMPANY A NATURAL GAS
5 FLEET VEHICLE TAX CREDIT CERTIFICATE.

6 Section 1704-G.2. Natural gas fleet vehicle tax credits.

7 (a) Maximum amount.--A company may claim a natural gas fleet
8 vehicle tax credit of up to 60% of the incremental cost for
9 vehicles having a gross vehicle weight rating of at least 14,000
10 pounds but no more than 26,000 pounds, or 50% of the incremental
11 cost for vehicles having a gross vehicle weight rating over
12 26,000 pounds. The incremental cost for vehicles with a gross
13 vehicle weight rating between 14,000 pounds and 26,000 pounds
14 shall be capped at \$25,000. The incremental cost for vehicles
15 with a gross vehicle weight rating of more than 26,000 pounds
16 shall be capped at \$50,000.

17 (b) Applicable taxes.--A company may apply the natural gas
18 fleet vehicle tax credit to 100% of all or a combination of any
19 of the following taxes of the company:

20 (1) State corporate net income tax.

21 (2) Capital stock and franchise tax or the capital stock
22 and franchise tax of a shareholder of the company if the
23 company is a Pennsylvania S corporation.

24 (3) Gross premiums tax.

25 (4) Gross receipts tax.

26 (5) Bank and trust company shares tax.

27 (6) Mutual thrift institution tax.

28 (7) Title insurance company shares tax.

29 (8) Personal income tax or the personal income tax of
30 shareholders of a Pennsylvania S corporation.

1 (c) Term.--A company may claim the natural gas fleet vehicle
2 tax credit in one year or spread the credit over a period
3 determined by the department but not to exceed five years from
4 the date the company first submits a certificate. A COMPANY MAY <--
5 NOT CARRY BACK OR OBTAIN A REFUND OF THE NATURAL GAS FLEET
6 VEHICLE TAX CREDIT.

7 (d) Sale or assignment.--

8 (1) A natural gas fleet vehicle tax credit recipient,
9 upon application to and approval by the department, may sell
10 or assign, in whole or in part, a natural gas fleet vehicle
11 tax credit granted to the recipient if no claim for allowance
12 of the credit is filed within one year from the date the
13 credit is granted by the department.

14 (2) The purchaser or assignee of a natural gas fleet
15 vehicle tax credit shall immediately claim the credit in the
16 taxable year in which the purchase or assignment is made. The
17 purchaser or assignee may not carry back, obtain a refund of
18 or sell or assign the natural gas fleet vehicle tax credit.
19 The purchaser or assignee shall notify the department of the
20 seller or assignor of the natural gas fleet vehicle tax
21 credit in compliance with procedures specified by the
22 department.

23 (3) The department shall promulgate guidelines for the
24 approval of applications under this subsection.

25 ~~(e) Availability. Each fiscal year, \$25,000,000 in natural <--~~
26 ~~gas fleet vehicle tax credits shall be made available to the~~
27 ~~department and may be awarded by the department in accordance~~
28 ~~with this article.~~

29 (E) LIMITATION.--IN GRANTING A NATURAL GAS FLEET VEHICLE TAX <--
30 CREDIT CERTIFICATE UNDER THIS ARTICLE, THE DEPARTMENT:

1 (I) MAY NOT GRANT MORE THAN \$25,000,000 IN NATURAL
2 GAS FLEET VEHICLE TAX CREDIT CERTIFICATES IN A FISCAL
3 YEAR; OR

4 (II) MAY NOT GRANT MORE THAN \$1,000,000 IN NATURAL
5 GAS FLEET VEHICLE TAX CREDIT CERTIFICATES TO A SINGLE
6 COMPANY IN A FISCAL YEAR.

7 Section 1705-G.2. Penalties.

8 (a) Failure to maintain operations.--A company which
9 receives natural gas fleet vehicle tax credits and fails to keep <--
10 and operate in this Commonwealth 80% of MAINTAIN PENNSYLVANIA <--
11 REGISTRATION FOR the natural gas vehicles for which they
12 received the tax credits for a period of five years from the
13 start date shall refund to the Commonwealth the total amount of
14 credits granted.

15 (b) Failure to complete conversion plan.--A company which
16 receives a natural gas fleet vehicle tax credit and fails to
17 complete the conversion plan within four years shall refund to
18 the Commonwealth the total amount of credits granted.

19 (c) Waiver.--The department may waive the penalties under
20 subsections (a) and (b) if it is determined that a company's
21 conversion plan was not completed because of circumstances
22 beyond the company's control. Circumstances shall include
23 natural disasters, unforeseen industry trends or a loss of a
24 major supplier or market. The company must promptly notify the
25 department of circumstances beyond its control which would delay
26 completion of the project.

27 Section 1706-G.2. Report to General Assembly

28 No later than June 1, 2014, and each June 1 thereafter, the
29 department shall submit a report on the natural gas fleet
30 vehicle tax credits granted under this article. The report shall

1 include the names of taxpayers who utilized the credit as of the
2 date of the report and the amount of credits approved. The
3 report may include recommendations for changes in the
4 calculation or administration of the natural gas fleet vehicle
5 tax credit and other information as the department deems
6 appropriate. The report shall be submitted to all of the
7 following:

8 (1) The chairman and minority chairman of the
9 Appropriations Committee of the Senate.

10 (2) The chairman and minority chairman of the
11 Appropriations Committee of the House of Representatives.

12 (3) The chairman and minority chairman of the Finance
13 Committee of the Senate.

14 (4) The chairman and the minority chairman of the
15 Finance Committee of the House of Representatives.

16 Section 1707-G.2. Time limitations.

17 A company shall not be entitled to a natural gas fleet
18 vehicle tax credit for taxable years ending after December 31,
19 2016.

20 Section 1708-G.2. ~~Regulations~~ GUIDELINES.

<--

21 The ~~secretary shall promulgate regulations~~ DEPARTMENT, IN
22 CONJUNCTION WITH THE DEPARTMENT OF REVENUE, SHALL PROMULGATE
23 GUIDELINES necessary for the implementation and administration
24 of this article.

<--

25 Section 2. This act shall take effect in 60 days.