

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 16, 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 OPERATES ON 100% NATURAL GAS FUEL AND is manufactured by an <--  
15 original equipment manufacturer or original and third party  
16 equipment manufacturers provided that the third party  
17 manufacturers provide the parts or services prior to the  
18 original sale of the vehicle to a purchaser and the vehicle  
19 components, including the alternative fuel system, are covered  
20 by the original equipment manufacturer or under separate  
21 warranties.

22 "Dedicated liquefied natural gas vehicle." A vehicle that  
23 operates on 90% or more liquefied natural gas fuel and 10% or  
24 less on gasoline or diesel fuel and is manufactured by an  
25 original equipment manufacturer or original and third party  
26 equipment manufacturers provided that the third party  
27 manufacturers provide the parts or services prior to the  
28 original sale of the vehicle to a purchaser and the vehicle  
29 components, including the alternative fuel system, are covered  
30 by the original equipment manufacturer or under separate

1 warranties.

2 "Department." The Department of Community and Economic  
3 Development of the Commonwealth.

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

5 "Incremental cost." The excess cost of a new ~~natural gas~~ <--  
6 ~~motor vehicle~~ DEDICATED COMPRESSED NATURAL GAS VEHICLE OR A NEW <--  
7 DEDICATED LIQUEFIED NATURAL GAS VEHICLE over the price for a  
8 gasoline or diesel fuel ~~motor~~ vehicle of the same model. The <--  
9 term does not include the cost to retro-fit a vehicle to operate  
10 on natural gas.

11 ~~"Natural gas conversion plan." A company's plan to convert <--~~  
12 ~~its vehicle fleet to compressed or liquefied natural gas fueled~~  
13 ~~vehicles by purchasing new natural gas fueled vehicles.~~

14 "NATURAL GAS CONVERSION PLAN." A COMPANY'S PLAN TO CONVERT <--  
15 AT LEAST FIVE FLEET VEHICLES TO DEDICATED COMPRESSED NATURAL GAS  
16 OR DEDICATED LIQUEFIED NATURAL GAS VEHICLES BY PURCHASING NEW  
17 DEDICATED COMPRESSED NATURAL GAS OR NEW DEDICATED LIQUEFIED  
18 NATURAL GAS VEHICLES.

19 "Natural gas fleet vehicle tax credit." Tax credits for  
20 which the Department of ~~Revenue~~ COMMUNITY AND ECONOMIC <--  
21 DEVELOPMENT has issued a certificate under this article.

22 "Start date." The date on which the company ~~may~~ WILL begin <--  
23 the company's conversion plan to natural gas-fueled fleet  
24 vehicles

25 Section 1702-G.2. Eligibility.

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

29 (1) A ~~comprehensive~~ natural gas conversion plan of fleet <--  
30 vehicles within four years of the start date.

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

3       (3) A statement of the projected usage of natural gas  
4 stated in gasoline gallon equivalents for DEDICATED <--  
5 compressed natural gas vehicles and diesel gallon equivalents  
6 for DEDICATED liquefied natural gas vehicles accompanied by <--  
7 the methodology utilized.

8       (4) The intent to maintain operations in this  
9 Commonwealth for a period of no less than five years from the  
10 start date COMPLETION OF THE NATURAL GAS CONVERSION PLAN. <--

11       (5) Minimum fuel usage of 900 gasoline or diesel gallon  
12 equivalents per day. Fuel usage requirements may be met from  
13 a single applicant or multiple companies under a single  
14 application if:

15           (i) The companies have an agreement to utilize a  
16 natural gas fueling facility.

17           (ii) The companies demonstrate that the utilization  
18 of a natural gas fueling facility would be at a minimum  
19 level of 900 gasoline or diesel gallon equivalents per  
20 day or have an existing contract with a third party fuel  
21 provider that is willing to construct the station if the  
22 natural gas vehicle tax credit is awarded.

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

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

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

29 Section 1703-G.2. Application process.

30       (a) Application.--A company may apply to the department for

1 a natural gas fleet vehicle tax credit under this article. The  
2 application must be on the form required by the department and  
3 include the documentation to establish eligibility as required  
4 by section 1702-G.2.

5 (b) Natural Gas Fleet Vehicle Tax Credit Committee.--The  
6 Natural Gas Fleet Vehicle Tax Credit Committee is established  
7 and shall consist of members designated by the following, except  
8 that none of the following may be designees:

9 (1) The Secretary of Community and Economic Development.

10 (2) The Secretary of Transportation.

11 (3) The Secretary of Environmental Protection.

12 (4) The Secretary of Revenue.

13 ~~(5) The chairman of the Marcellus Shale Coalition.~~ <--

14 ~~(6) The Executive Director of Associated Petroleum~~  
15 ~~Industries of Pennsylvania.~~

16 (c) Application period and review.--The department shall  
17 establish application periods that may not exceed 90 days. The  
18 applications received during an application period shall be  
19 reviewed by the committee and ranked based on natural gas  
20 utilization. The committee shall recommend applications to the  
21 department.

22 (d) Approval.--Once applications are ranked by the committee  
23 under subsection (c), the department may approve the  
24 applications according to their discretion and availability of  
25 natural gas fleet vehicle tax credits. Applications that are not  
26 approved must be returned to the committee for review during the  
27 next application period.

28 (E) LIMITATION OF APPLICATION ROLL-OVER.--AN APPLICATION NOT <--  
29 APPROVED BY JUNE 30 MAY NOT BE RETURNED TO THE COMMITTEE FOR  
30 REVIEW. THE DEPARTMENT SHALL NOTIFY AN APPLICANT WHOSE

1 APPLICATION HAS NOT BEEN APPROVED BY JUNE 30 THAT A NEW  
2 APPLICATION FOR THE NATURAL GAS FLEET VEHICLE TAX CREDIT MUST BE  
3 FILED WITH THE DEPARTMENT IN ORDER FOR THE APPLICANT TO CONTINUE  
4 TO BE CONSIDERED FOR A NATURAL GAS FLEET VEHICLE TAX CREDIT.

5 ~~(e)~~ (F) Contract.--The department and the company shall <--  
6 execute a contract containing the following:

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

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

10 ~~(3) A signed statement that the company intends to~~ <--  
11 ~~complete its conversion plan and remain in this Commonwealth~~  
12 ~~for five years from the start date.~~

13 ~~(4) Any other information as the department deems~~  
14 ~~appropriate.~~

15 (3) THE START DATE. <--

16 (4) A SIGNED STATEMENT THAT THE COMPANY INTENDS TO  
17 COMPLETE ITS CONVERSION PLAN WITHIN FOUR YEARS FROM THE START  
18 DATE AND REMAIN IN THIS COMMONWEALTH FOR FIVE YEARS FROM THE  
19 DATE ITS CONVERSION PLAN IS COMPLETED.

20 (5) ANY OTHER INFORMATION AS THE DEPARTMENT, IN  
21 CONJUNCTION WITH THE DEPARTMENT OF REVENUE, DEEMS  
22 APPROPRIATE.

23 ~~(f) Certificate. Upon execution of the contract required in~~ <--  
24 ~~subsection (e), the department shall award the company a natural~~  
25 ~~gas fleet vehicle tax credit and issue the company a natural gas~~  
26 ~~fleet vehicle tax credit certificate.~~

27 (G) CERTIFICATE.--UPON EXECUTION OF THE CONTRACT REQUIRED <--  
28 UNDER SUBSECTION (F), THE DEPARTMENT SHALL:

29 (1) VERIFY WITH THE DEPARTMENT OF REVENUE THAT THE  
30 COMPANY HAS FILED ALL REQUIRED STATE TAX REPORTS AND RETURNS

1 FOR ALL APPLICABLE TAX YEARS AND PAID ANY BALANCE OF STATE  
2 TAX DUE AS DETERMINED AT SETTLEMENT, ASSESSMENT OR  
3 DETERMINATION BY THE DEPARTMENT OF REVENUE;

4 (2) AWARD THE COMPANY A NATURAL GAS FLEET VEHICLE TAX  
5 CREDIT; AND

6 (3) ISSUE THE COMPANY A NATURAL GAS FLEET VEHICLE TAX  
7 CREDIT CERTIFICATE.

8 (H) NOTICE OF COMPLETION.--UPON COMPLETION OF THE CONVERSION  
9 PLAN, THE COMPANY SHALL NOTIFY THE DEPARTMENT ON A FORM REQUIRED  
10 BY THE DEPARTMENT.

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

12 (a) Maximum amount.--A company may claim a natural gas fleet  
13 vehicle tax credit of up to 60% of the incremental cost for  
14 vehicles having a gross vehicle weight rating of at least 14,000  
15 pounds but no more than 26,000 pounds, or 50% of the incremental  
16 cost for vehicles having a gross vehicle weight rating over  
17 26,000 pounds. The incremental cost for vehicles with a gross  
18 vehicle weight rating between 14,000 pounds and 26,000 pounds  
19 shall be capped at \$25,000. The incremental cost for vehicles  
20 with a gross vehicle weight rating of more than 26,000 pounds  
21 shall be capped at \$50,000.

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

25 (1) State corporate net income tax.

26 (2) Capital stock and franchise tax or the capital stock  
27 and franchise tax of a shareholder of the company if the  
28 company is a Pennsylvania S corporation.

29 (3) Gross premiums tax.

30 (4) Gross receipts tax.

1           (5) Bank and trust company shares tax.

2           (6) Mutual thrift institution tax.

3           (7) Title insurance company shares tax.

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

6           ~~(c) Term. A company may claim the natural gas fleet vehicle~~<--  
7           ~~tax credit in one year or spread the credit over a period~~  
8           ~~determined by the department but not to exceed five years from~~  
9           ~~the date the company first submits a certificate.~~

10          (C) CARRYFORWARD, CARRYBACK AND REFUND.--A COMPANY MAY CARRY<--  
11          FORWARD ALL OR ANY UNUSED PORTION OF THE TAX CREDIT FOR A PERIOD  
12          OF FIVE YEARS FROM THE START DATE. A company may not carry back  
13          or obtain a refund of the natural gas fleet vehicle tax credit.

14          (d) Sale or assignment.--

15               (1) A natural gas fleet vehicle tax credit recipient,  
16               upon application to and approval by the department, may sell  
17               or assign, in whole or in part, a natural gas fleet vehicle  
18               tax credit granted to the recipient if no claim for allowance  
19               of the credit is filed within one year from the date the  
20               credit is granted by the department.

21               (2) The purchaser or assignee of a natural gas fleet  
22               vehicle tax credit shall immediately claim the credit in the  
23               taxable year in which the purchase or assignment is made. THE<--  
24               AMOUNT OF THE TAX CREDIT A PURCHASER OR ASSIGNEE MAY USE  
25               AGAINST ANY ONE QUALIFIED TAX LIABILITY MAY NOT EXCEED 75% OF  
26               THE QUALIFIED TAX LIABILITY FOR THE TAXABLE YEAR. The  
27               purchaser or assignee may not carry back, obtain a refund of  
28               or sell or assign the natural gas fleet vehicle tax credit.  
29               The purchaser or assignee shall notify the department of the  
30               seller or assignor of the natural gas fleet vehicle tax



1 credit in compliance with procedures specified by the  
2 department.

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

5 (4) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF <--  
6 REVENUE SHALL MAKE A FINDING THAT THE APPLICANT HAS FILED ALL  
7 REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE TAX  
8 YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED AT  
9 SETTLEMENT, ASSESSMENT OR DETERMINATION BY THE DEPARTMENT OF  
10 REVENUE.

11 (e) Limitation.--In granting a natural gas fleet vehicle tax  
12 credit certificate under this article, the department:

13 (i) may not grant more than \$25,000,000 in natural  
14 gas fleet vehicle tax credit certificates in a fiscal  
15 year; or

16 (ii) may not grant more than \$1,000,000 in natural  
17 gas fleet vehicle tax credit certificates to a single  
18 company in a fiscal year.

19 SECTION 1704.1-G.2. VERIFICATION OF CONTINUED ELIGIBILITY. <--

20 (A) TAX CREDIT.--EACH FISCAL YEAR, A COMPANY AWARDED A TAX  
21 CREDIT UNDER THIS ARTICLE SHALL, ON A FORM REQUIRED BY THE  
22 DEPARTMENT, PROVIDE THE DEPARTMENT WITH DOCUMENTATION THAT THE  
23 COMPANY IS IN COMPLIANCE WITH THIS ARTICLE AND THE CONTRACT  
24 EXECUTED UNDER SECTION 1703-G.2(F).

25 (B) NOTICE OF COMPLETION.--A COMPANY THAT HAS PROVIDED  
26 NOTICE OF COMPLETION AS REQUIRED UNDER SECTION 1703-G.2(H) SHALL  
27 ANNUALLY PROVIDE DOCUMENTATION THAT THE COMPANY IS IN COMPLIANCE  
28 WITH THIS ARTICLE FOR A PERIOD OF FIVE YEARS FROM THE DATE THE  
29 NOTICE OF COMPLETION IS GIVEN TO THE DEPARTMENT.

30 Section 1705-G.2. Penalties RECAPTURE. <--

1 (a) Failure to maintain operations.--A company which  
2 receives natural gas fleet vehicle tax credits and fails to  
3 maintain Pennsylvania registration for the natural gas DEDICATED <--  
4 COMPRESSED NATURAL GAS OR DEDICATED LIQUEFIED NATURAL GAS  
5 vehicles for which they received the tax credits for a period of  
6 five years from the start date NOTICE OF COMPLETION WAS GIVEN TO <--  
7 THE DEPARTMENT shall refund to the Commonwealth the total amount  
8 of credits granted.

9 (b) Failure to complete conversion plan.--A company which  
10 receives a natural gas fleet vehicle tax credit and fails to  
11 complete the conversion plan within four years FROM THE START <--  
12 DATE shall refund to the Commonwealth the total amount of  
13 credits granted.

14 (c) Waiver.--The department may waive the penalties under  
15 subsections (a) and (b) if it is determined that a COMPANY DID <--  
16 NOT MAINTAIN PENNSYLVANIA REGISTRATION OR A company's conversion  
17 plan was not completed because of circumstances beyond the  
18 company's control. Circumstances shall include natural  
19 disasters, unforeseen industry trends or a loss of a major  
20 supplier or market. The company must promptly notify the  
21 department of circumstances beyond its control which would delay  
22 completion of the project.

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

24 No later than June 1, 2014, and each June 1 thereafter, the  
25 department shall submit a report on the natural gas fleet  
26 vehicle tax credits granted under this article. The report shall  
27 include the names of taxpayers who utilized the credit as of the  
28 date of the report and, the amount of credits approved, THE <--  
29 NAMES OF TAXPAYERS WHO RECEIVE A WAIVER UNDER SECTION 1705-  
30 G.2(C), THE AMOUNT OF PENALTIES WAIVED UNDER 1705-G.2(C), AND

1 THE REASON FOR THE WAIVER. The report may include  
2 recommendations for changes in the calculation or administration  
3 of the natural gas fleet vehicle tax credit and other  
4 information as the department deems appropriate. The report  
5 shall be submitted to all of the following:

6 (1) The chairman and minority chairman of the  
7 Appropriations Committee of the Senate.

8 (2) The chairman and minority chairman of the  
9 Appropriations Committee of the House of Representatives.

10 (3) The chairman and minority chairman of the Finance  
11 Committee of the Senate.

12 (4) The chairman and the minority chairman of the  
13 Finance Committee of the House of Representatives.

14 Section 1707-G.2. Time limitations.

15 A company shall not be entitled to THE DEPARTMENT MAY NOT <--  
16 AWARD a natural gas fleet vehicle tax credit for taxable years  
17 ending after December 31, 2016.

18 Section 1708-G.2. Guidelines.

19 The department, in conjunction with the Department of  
20 Revenue, shall promulgate guidelines necessary for the  
21 implementation and administration of this article.

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