

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 308 Session of 2013

INTRODUCED BY SAYLOR, AUMENT, BAKER, CUTLER, DENLINGER, EVANKOVICH, GINGRICH, GODSHALL, GROVE, C. HARRIS, HICKERNELL, KAUFFMAN, F. KELLER, KORTZ, MARSHALL, MATZIE, MILLER, MOUL, PICKETT, ROCK, SIMMONS, SWANGER AND WATSON, FEBRUARY 5, 2013

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 5, 2013

AN ACT

1 Amending the act of January 8, 1960 (1959 P.L.2119, No.787),
 2 entitled, as amended, "An act to provide for the better
 3 protection of the health, general welfare and property of the
 4 people of the Commonwealth by the control, abatement,
 5 reduction and prevention of the pollution of the air by
 6 smokes, dusts, fumes, gases, odors, mists, vapors, pollens
 7 and similar matter, or any combination thereof; imposing
 8 certain powers and duties on the Department of Environmental
 9 Resources, the Environmental Quality Board and the
 10 Environmental Hearing Board; establishing procedures for the
 11 protection of health and public safety during emergency
 12 conditions; creating a stationary air contamination source
 13 permit system; providing additional remedies for abating air
 14 pollution; reserving powers to local political subdivisions,
 15 and defining the relationship between this act and the
 16 ordinances, resolutions and regulations of counties, cities,
 17 boroughs, towns and townships; imposing penalties for
 18 violation of this act; and providing for the power to enjoin
 19 violations of this act; and conferring upon persons aggrieved
 20 certain rights and remedies," further providing for
 21 definitions and for disposition of fees, fines and civil
 22 penalties; establishing the Keystone Vehicle Program; and
 23 making editorial changes.

24 The General Assembly of the Commonwealth of Pennsylvania
 25 hereby enacts as follows:

26 Section 1. Section 3 of the act of January 8, 1960 (1959
 27 P.L.2119, No.787), known as the Air Pollution Control Act,

1 amended July 9, 1992 (P.L.460, No.95), is amended to read:

2 Section 3. Definitions.--The following words and phrases,
3 when used in this act, unless the context clearly indicates
4 otherwise, shall have the meaning ascribed to them in this
5 section:

6 "Administrator." The Administrator of the United States
7 Environmental Protection Agency.

8 "Air contaminant." Smoke, dust, fume, gas, odor, mist,
9 radioactive substance, vapor, pollen or any combination thereof.

10 "Air contamination." The presence in the outdoor atmosphere
11 of an air contaminant which contributes to any condition of air
12 pollution.

13 "Air contamination source." Any place, facility or
14 equipment, stationary or mobile, at, from or by reason of which
15 there is emitted into the outdoor atmosphere any air
16 contaminant.

17 "Air pollution." The presence in the outdoor atmosphere of
18 any form of contaminant, including, but not limited to, the
19 discharging from stacks, chimneys, openings, buildings,
20 structures, open fires, vehicles, processes or any other source
21 of any smoke, soot, fly ash, dust, cinders, dirt, noxious or
22 obnoxious acids, fumes, oxides, gases, vapors, odors, toxic,
23 hazardous or radioactive substances, waste or any other matter
24 in such place, manner or concentration inimical or which may be
25 inimical to the public health, safety or welfare or which is or
26 may be injurious to human, plant or animal life or to property
27 or which unreasonably interferes with the comfortable enjoyment
28 of life or property.

29 "Applicant." A company which meets the eligibility
30 requirements for a Keystone Vehicle Grant.

1 "Approved air pollution control agency." An air pollution
2 control agency of any political subdivision of the Commonwealth
3 which has been granted approval by the Environmental Quality
4 Board.

5 "Board" or "EQB." The Environmental Quality Board.

6 "Clean Air Act." Public Law 95-95 as amended, 42 U.S.C. §
7 7401 et seq.

8 "Company." An entity doing business in this Commonwealth
9 which owns five or more vehicles and which is subject to tax
10 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
11 No.2), known as the Tax Reform Code of 1971. The term includes
12 the shareholder of a Pennsylvania S corporation that is eligible
13 for a Keystone Vehicle Grant.

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

15 "Dedicated compressed natural gas vehicle." A new vehicle
16 that operates on ninety per centum (90%) or more compressed
17 natural gas fuel and ten per centum (10%) or less on gasoline or
18 diesel fuel.

19 "Dedicated liquefied natural gas vehicle." A new vehicle
20 that operates on ninety per centum (90%) or more liquefied
21 natural gas fuel and ten per centum (10%) or less on gasoline or
22 diesel fuel.

23 "Department." The Department of Environmental [Resources]
24 Protection of the Commonwealth.

25 "Environmental Protection Agency" or "EPA." The United
26 States Environmental Protection Agency or the Administrator of
27 the United States Environmental Protection Agency.

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

29 "Gasoline-dispensing facility." A facility from which
30 gasoline is transferred to motor vehicle fuel tanks.

1 "Hearing board." The Environmental Hearing Board.

2 "Incremental cost." The excess cost of a new natural gas
3 motor vehicle over the price for a gasoline or diesel fuel motor
4 vehicle of the same or similar model.

5 "Keystone Vehicle Grant." A grant awarded under section
6 14.2.

7 "Natural gas conversion plan." A company's plan to convert
8 their vehicle fleet to compressed or liquid natural gas-fueled
9 vehicles by purchasing new natural gas motor vehicles.

10 "New natural gas motor vehicle." Any of the following:

11 (1) A dedicated compressed natural gas vehicle.

12 (2) A dedicated liquefied natural gas vehicle.

13 "Person." Any individual, public or private corporation for
14 profit or not for profit, association, partnership, firm, trust,
15 estate, department, board, bureau or agency of the Commonwealth
16 or the Federal Government, political subdivision, municipality,
17 district, authority or any other legal entity whatsoever which
18 is recognized by law as the subject of rights and duties.

19 "Plan approval." The written approval from the Department of
20 Environmental Resources which authorizes a person to construct,
21 assemble, install or modify any stationary air contamination
22 source or install thereon any air pollution control equipment or
23 device.

24 "Region." Any geographical subdivision of the Commonwealth
25 whose boundaries shall be determined by the Environmental
26 Quality Board.

27 "Secretary." The Secretary of Environmental Protection of
28 the Commonwealth.

29 "Small business stationary source." A stationary source
30 that:

1 (1) is owned or operated by a person that employs one
2 hundred (100) or fewer individuals;

3 (2) is a small business as defined in the Small Business Act
4 (Public Law 85-536, 15 U.S.C. § 78a et seq.);

5 (3) is not a major stationary source;

6 (4) does not emit fifty (50) tons per year of any regulated
7 pollutant; and

8 (5) emits less than seventy-five (75) tons per year of all
9 regulated pollutants.

10 "Start date." The date on which a company will begin a
11 company's conversion plan to natural gas motor vehicles.

12 "State implementation plan." The plan or plan revision that
13 a state is authorized and required to submit under section 110
14 of the Clean Air Act (Public Law 95-95 as amended, 42 U.S.C. §
15 7410) to provide for attainment of the national ambient air
16 quality standards.

17 "Stationary air contamination source." Any air contamination
18 source other than that which, when operated, moves in a given
19 direction under its own power.

20 Section 2. Section 9.2(a) of the act, amended July 7, 2011
21 (P.L.271, No.57), is amended to read:

22 Section 9.2. Disposition of Fees, Fines and Civil
23 Penalties.--(a) (1) Except as provided under clause (2) and
24 subsection (a.1), [all] the following shall apply:

25 (i) All fines, civil penalties and fees collected under this
26 act shall be paid into the Treasury of the Commonwealth in a
27 special fund known as the Clean Air Fund, hereby established,
28 which, along with interest earned, shall be administered by the
29 department for use in the elimination of air pollution.

30 (ii) The department may establish such separate accounts as

1 may be necessary or appropriate to implement the requirements of
2 this act and the Clean Air Act.

3 (iii) The board shall adopt rules and regulations for the
4 management and use of the money in the fund.

5 (2) Beginning in fiscal year 2013-2014 through fiscal year
6 2018-2019, six million dollars (\$6,000,000.00) of the amount of
7 funds deposited in the Clean Air Fund shall annually be used for
8 Keystone Vehicle Grants.

9 * * *

10 Section 3. The act is amended by adding sections to read:

11 Section 14. Keystone Vehicle Program.--The Keystone Vehicle
12 Program is established to award Keystone Vehicle Grants and
13 shall be administered by the department in accordance with this
14 act.

15 Section 14.1. Keystone Vehicle Grants.--(a) In order to be
16 eligible to receive a Keystone Vehicle Grant, a company must
17 provide or demonstrate to the department the following:

18 (1) A comprehensive natural gas conversion plan of fleet
19 vehicles within four years of the start date which is
20 financially viable and includes the construction and utilization
21 of a natural gas fueling station in this Commonwealth or the use
22 of an existing natural gas fueling station in this Commonwealth.

23 (2) A statement of the projected usage of natural gas stated
24 in gasoline gallon equivalents accompanied by the methodology
25 utilized.

26 (3) The intent to maintain operations in this Commonwealth
27 for a period of not less than six (6) years from the start date.

28 (4) Either:

29 (i) an agreement between the applicant and a third-party
30 natural gas fueling provider in this Commonwealth to supply

1 natural gas fuel to the fleet if the Keystone Vehicle Grant is
2 awarded; or

3 (ii) a minimum fuel usage of 324,000 gasoline gallon
4 equivalents per year or more. Fuel usage requirements may be met
5 from a single applicant or multiple companies under a single
6 application if:

7 (A) The companies have an agreement to utilize a single
8 natural gas fueling facility in this Commonwealth.

9 (B) The companies demonstrate that the utilization of the
10 single natural gas fueling facility would be at a minimum level
11 of 324,000 gasoline gallon equivalents per year.

12 (5) The majority of operations to be performed by the new
13 natural gas motor vehicles purchased with the Keystone Vehicle
14 Grant will be for any of the following:

15 (i) The transportation of persons or goods from between
16 points within this Commonwealth.

17 (ii) The transportation of persons or goods from between
18 points in this Commonwealth and points outside this
19 Commonwealth.

20 (iii) A combination of the operations under subparagraphs
21 (i) and (ii).

22 (6) All of the new natural gas motor vehicles purchased with
23 the Keystone Vehicle Grant will be registered in this
24 Commonwealth.

25 (7) The company's start date will be no more than ninety
26 (90) days following the receipt of a Keystone Vehicle Grant by
27 the company.

28 (b) The following shall constitute eligible vehicle types
29 under the Keystone Vehicle Program:

30 (1) Dedicated compressed natural gas vehicles having a gross

1 vehicle weight rating of at least 33,000 pounds.

2 (2) Dedicated liquefied natural gas vehicles having a gross
3 vehicle weight rating of at least 33,000 pounds.

4 Section 14.2. Application Process.--(a) A company must
5 complete and submit to the department a Keystone Vehicle Program
6 application.

7 (b) The department shall review each application submitted
8 under subsection (a) and may, in its sole discretion, approve a
9 Keystone Vehicle Grant for eligible applicants. The department
10 and the company whose application has been approved for a
11 Keystone Vehicle Grant shall execute a commitment letter
12 containing the following:

13 (1) A description of the natural gas conversion plan which
14 shall include a statement of the projected minimum yearly
15 natural gas usage in terms of gasoline gallon equivalents.

16 (2) The amount of private capital investment in the plan.

17 (3) A signed statement that the company intends to complete
18 its plan and remain in this Commonwealth for six (6) years from
19 the start date.

20 (4) Any other information as the department deems
21 appropriate.

22 (c) After a commitment letter has been signed by the
23 Commonwealth and the company, the company shall receive a
24 Keystone Vehicle Grant.

25 Section 14.3. Keystone Vehicle Grant Funding and
26 Limitations.--(a) The amount under section 9.2(a)(2) shall be
27 transferred annually to fund the Keystone Vehicle Program.

28 (b) A company that is approved to receive a Keystone Vehicle
29 Grant shall use the funds to purchase new natural gas motor
30 vehicles.

1 (c) A company may receive a Keystone Vehicle Grant of up to
2 fifty per centum (50%) of the incremental cost for new natural
3 gas motor vehicles having a gross vehicle weight rating of at
4 least 33,000 pounds. The incremental cost for vehicles shall be
5 capped at fifty thousand dollars (\$50,000.00).

6 Section 14.4. Guidelines.--The department shall establish
7 guidelines for the approval of applications under section 14.2.

8 Section 14.5. Penalties.--(a) A company which receives a
9 Keystone Vehicle Grant and fails to attain at least ninety per
10 centum (90%) of the projected minimum yearly natural gas usage
11 as stated in the commitment letter by the conclusion of the
12 fourth year after the start date shall refund to the
13 Commonwealth the total amount of the Keystone Vehicle Grant.

14 (b) A company which receives a Keystone Vehicle Grant and
15 fails to complete the natural gas conversion plan within four
16 (4) years shall refund to the Commonwealth the total amount of
17 the Keystone Vehicle Grant.

18 (c) A company which receives a Keystone Vehicle Grant and
19 fails to maintain registration in this Commonwealth of all new
20 natural gas motor vehicles purchased with the Keystone Vehicle
21 Grant for a minimum of six (6) years shall refund to the
22 Commonwealth the total amount of the Keystone Vehicle Grant per
23 new natural gas motor vehicle for each new natural gas motor
24 vehicle that has not maintained registration in this
25 Commonwealth.

26 (d) If a company fails to meet the operations requirements
27 under section 14.1(a)(5), the total amount of the Keystone
28 Vehicle Grant shall be refunded to the Commonwealth.

29 (e) (1) The department may waive the penalties under
30 subsections (a), (b), (c) and (d) if it is determined that a

1 company's natural gas conversion plan was not completed because
2 of circumstances beyond the company's control, including natural
3 disasters, unforeseen industry trends or a loss of a major
4 supplier or market.

5 (2) The company shall promptly notify the department of
6 circumstances beyond its control which would delay completion of
7 the plan.

8 Section 14.6. Report to General Assembly.--Not later than
9 June 1, 2015, and each June 1 thereafter, the department shall
10 submit a report on the Keystone Vehicle Grants awarded under
11 section 14.2. The report shall include the names of companies
12 who utilized the Keystone Vehicle Grants as of the date of the
13 report and the amount of Keystone Vehicle Grants approved. The
14 report may include recommendations for changes in the
15 calculation or administration of the Keystone Vehicle Program
16 and other information as the department deems appropriate. The
17 report shall be submitted to all of the following:

18 (1) The chairman and minority chairman of the Appropriations
19 Committee of the Senate.

20 (2) The chairman and minority chairman of the Appropriations
21 Committee of the House of Representatives.

22 (3) The chairman and minority chairman of the Finance
23 Committee of the Senate.

24 (4) The chairman and minority chairman of the Finance
25 Committee of the House of Representatives.

26 Section 14.7. Regulations.--The secretary shall promulgate
27 regulations necessary for the implementation and administration
28 of the Keystone Vehicle Program.

29 Section 4. Sections 14 and 15 of the act are renumbered to
30 read:

1 Section [14] 41. Severability.--The provisions of this act
2 are severable and if any provision, sentence, clause, section or
3 part thereof shall be held illegal, invalid, unconstitutional or
4 inapplicable to any person or circumstances, such illegality,
5 invalidity, unconstitutionality or inapplicability shall not
6 affect or impair any of the remaining provisions, sentences,
7 clauses, sections or parts of the ordinance or their application
8 to him or to other persons and circumstances. It is hereby
9 declared to be the legislative intent that this act would have
10 been adopted if such illegal, invalid or unconstitutional
11 provision, sentence, clause, section or part had not been
12 included therein, and if the person or circumstances to which
13 the ordinance or any part thereof is inapplicable had not
14 specifically been exempted therefrom.

15 Section [15] 42. Effective Date.--This act shall take effect
16 immediately: Provided, however, That the rules and regulations
17 promulgated pursuant to the provisions of this act shall be of
18 no effect until one (1) year after the passage of this act.

19 Section 5. The provisions of 25 Pa. Code § 143.1(a) are
20 abrogated to the extent they are inconsistent with the
21 following:

22 (1) The amendment of sections 3 and 9.2 of the act.

23 (2) The addition of sections 14, 14.1, 14.2, 14.3, 14.4,
24 14.5, 14.6 and 14.7 of the act.

25 Section 6. This act shall take effect in 60 days.