

SENATE NO. 1730

AN ACT PROVIDING INCENTIVES FOR THE PURCHASE AND USE OF CLEAN, ALTERNATIVE TRANSPORTATION FUELS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2000

2 official Edition, is hereby amended by adding at the end, the following subsection:-

3 (1)(1) As used in this subsection, the following words and phrases shall have the following meanings:

4 "Alternative fuel", any fuel designated as such on an annual list issued by the department of
5 environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures
6 containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols
7 with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels;
8 fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar
9 energy); and any other fuel that the department of environmental protection determines is substantially
10 not petroleum.

11 SECTION 2. Said chapter 152 is hereby further amended by striking out

12 "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which
13 the department of environmental protection determines to: (1) operate exclusively on an alternative
14 fuel; and (2) meet applicable state and federal safety and emission standards. In addition, for an

15 alternative fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel
16 vehicle shall meet ultra low emission, inherently low emission, or zero emission vehicle standards, as
17 defined in regulations promulgated by the department of environmental protection, for total vehicle
18 emissions. For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight
19 rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle.
20 The department of environmental protection shall publish an annual list of alternative fuel vehicles.

21 "Comparable conventionally-fueled motor vehicle" or "comparable vehicle", a motor vehicle
22 which is (1) commercially available at the time the comparability of the vehicle is being assessed; (2)
23 powered by an internal combustion engine that uses petroleum as its fuel source; and (3) provides
24 passenger capacity or payload capacity the same or similar to the alternative fuel vehicle to which it is
25 being compared. The department of environmental protection shall publish an annual list, to be
26 updated as needed, of comparable conventionally-fueled motor vehicles.

27 "Facility", any structure, equipment, apparatus, wires or piping used with dispensing or charging
28 equipment necessary to dispense an alternative fuel as determined by the division of energy resources
29 in consultation with the department of environmental protection.

30 "Incremental cost", the difference between the price paid for the alternative fuel vehicle and the
31 average retail cost of a comparable conventionally-fueled motor vehicle. The department of
32 environmental protection shall publish an annual list, to be updated as needed, of the average retail
33 prices of comparable conventionally-fueled motor vehicles to be used as the basis for determining
34 incremental cost.

35 (2)(a) A credit shall be allowed against the tax imposed by this chapter in an amount equal to fifty
36 percent of the incremental cost of purchasing a new alternative fuel vehicle and fifty percent of the
37 cost of converting a petroleum fueled motor vehicle to an alternative fuel vehicle. For an originally

38 equipped alternative fuel vehicle, the credit allowed shall be claimed in the first taxable year in which
39 the vehicle is registered. For a motor vehicle which has been converted to an alternative fuel vehicle,
40 the credit allowed shall be claimed in the first taxable year in which such conversion occurs.

41 Conversion costs eligible for such credit shall include the cost of purchasing conversion equipment
42 necessary to convert a motor vehicle to an alternative fuel vehicle and the labor costs associated with
43 installing such conversion equipment.

44 (b) A credit also shall be allowed against the tax imposed by this chapter on an owner of a facility in
45 an amount equal to forty percent of the cost of constructing any facility in Massachusetts, available to
46 the public where feasible, for fueling alternative fuel vehicles. Facility costs eligible for a credit under
47 this paragraph include the cost of purchasing fueling equipment, charging equipment and other
48 materials necessary for the facility to fuel alternative fuel vehicles and the labor costs associated with
49 constructing the facility and installing such equipment. This credit shall be claimed in the first taxable
50 year in which the facility becomes operational.

51 (3) No credits shall be allowed under this subsection for the purchase of alternative fuel vehicles
52 purchased in accordance with federal requirements under the Energy Policy Act of 1992.

53 (4) The allowable credits under this subsection shall not exceed \$5,000 per vehicle or \$50,000 for a
54 single alternative fuel facility or \$100,000 for a facility dispensing multiple alternative fuels.

55 (5) The allowable credits under this subsection shall not exceed the total tax liability under this chapter
56 before any other credits are taken into account.

57 (6) In any year in which the credit described in this subsection exceeds the total tax liability under this
58 chapter before any other credits are taken into account, the unused credit, as reduced from year to year,
59 may be carried forward and used against the tax liability for one or more of the succeeding five tax
60 periods.

61 (7) The credit allowed herein shall apply to taxes due for taxable periods beginning on or after January
62 first, nineteen hundred and ninety-seven and ending on or before December thirty-first, two thousand
63 and four. Such credits, except for unused amounts of credits carried forward pursuant to subparagraph
64 (5), shall not apply to taxable periods beginning on or after January first, two thousand and five.

65 (8) For the period of time this credit is allowed, the commissioner shall provide to the department of
66 environmental protection with the following information as it becomes available:

67 (a) number of taxpayers claiming the credit;

68 (b) total dollars of credit claimed;

69 (c) the total number of alternative fuel vehicles for which credit is claimed and the type of fuel
70 that each vehicle is designed

71 (9) The commissioner shall promulgate rules and regulations necessary to implement the provisions of
72 this section.

73 SECTION 2. Chapter 63 of the General Laws, as appearing in the 2000 Official Edition,
74 is hereby amended by adding after section 38P, the following new section:-

75 Section 38Q. A corporation subject to tax pursuant to this chapter shall be allowed a credit against
76 such tax as allowed under subsection (h) of section six of chapter sixty-two provided that:

77 (1) if a corporation is subject to a minimum excise under any provision of this chapter, the
78 amount of the credit allowed by this section shall not reduce the excise to an amount less than
79 the minimum excise:

80 (2) the credit allowed under this section shall be subject to the provisions of section 32 C; and

81 (3) any corporation entitled to a credit pursuant to this section for any taxable year shall apply
82 such credit only to its excise for any of the eligible taxable years. Such credit may not be

83 applied against the excise liability of any other corporation pursuant to an election under the
84 provisions of section thirty-two B.

85 (4) Any corporation entitled to the credit allowed by this section may carry over and apply to
86 its excise for any one or more of the next succeeding five taxable years, the portion, as reduced
87 from year to year, of its credit which exceeds its excise for the taxable year.

88 (5) For the period of time this credit is allowed, the commissioner shall provide to the
89 department of environmental protection with the following information as it becomes
90 available:

91 (a) number of taxpayers claiming the credit;

92 (b) total dollars of credit claimed;

93 (c) the total number of alternative fuel vehicles for which credit is claimed and the type
94 of fuel that each vehicle is designed to use. The commissioner shall provide similar
95 information to the division of energy resources.

96 (6) The commissioner shall promulgate rules and regulations necessary to implement the
97 provisions of this section.

98 SECTION 3. Section 1 of chapter 64E of the General Laws, as appearing in the 2000
99 Official Edition, is hereby amended by adding the following new subsections:-

100 (l) "Alternative fuel", any fuel designated as such on an annual list issued by the department of
101 environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures
102 containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols
103 with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels;
104 fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar

105 energy); and any other fuel that the department of environmental protection determines is substantially
106 not petroleum.

107 (m) "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the
108 department of environmental protection determines to: (1) operate exclusively on an alternative fuel;
109 and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative
110 fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall
111 meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in
112 regulations promulgated by the department of environmental protection for total vehicle emissions.
113 For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the
114 alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The
115 department of environmental protection shall publish an annual list of alternative fuel vehicles.

116 SECTION 4. Section 4 of chapter 64E of the General Laws, as appearing in the 2000
117 Official Edition, is hereby amended by adding at the end thereof the following sentences:-

118 No person shall pay an excise pursuant to this chapter for alternative fuel when the alternative
119 fuel is dispensed into an alternative fuel vehicle. The exemptions provided in this paragraph shall not
120 apply to any such sales made after December thirty-first, two thousand and four.

121 SECTION 5. Section 1 of chapter 64F of the General Laws, as appearing in the 2000
122 Official Edition, is hereby amended by inserting the following new subsections:-

123 (g) "Alternative fuel", any fuel designated as such on an annual list issued by the department of
124 environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures
125 containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols
126 with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels;
127 fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar

128 energy); and any other fuel that the department of environmental protection determines is substantially
129 not petroleum.

130 (h) "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the
131 department of environmental protection determines to: (1) operate exclusively on an alternative fuel;
132 and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative
133 fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall
134 meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in
135 regulations promulgated by the department of environmental protection, for total vehicle emissions.
136 For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the
137 alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The
138 department of environmental protection shall publish an annual list of alternative fuel vehicles.

139 SECTION 6. Section 3 of chapter 64F of the General Laws, as appearing in the 2000
140 Official Edition, is hereby amended by inserting after the first sentence the following new sentences:-

141 No person shall pay an excise pursuant to this chapter for the privilege of using the highways
142 of the commonwealth while operating an alternative fuel vehicle. The exemptions provided in this
143 paragraph shall not apply to any such sales made after December thirty-first, two thousand and four.

144 SECTION 7. Section 6 of chapter 64H of the General Laws, as appearing in the 1996
145 Official Edition, is hereby amended by adding the following new subsections:-

146 (rr) As used in this subsection and in subsections (ss) and (tt), the following words and phrases shall
147 have the following meanings:-

148 "Alternative fuel", any fuel designated as such on an annual list issued by the department of
149 environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures
150 containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols

151 with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels;
152 fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar
153 energy); and any other fuel that the department of environmental protection determines is substantially
154 not petroleum.

155 "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the
156 department of environmental protection determines to: (1) operate exclusively on an alternative fuel;
157 and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative
158 fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall
159 meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in
160 regulations promulgated by the department of environmental protection, for total vehicle emissions.

161 For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the
162 alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The
163 department of environmental protection shall publish an annual list of alternative fuel vehicles.

164 "Comparable conventionally-fueled motor vehicle" or "comparable vehicle", a motor vehicle which is
165 (1) commercially available at the time the comparability of the vehicle is being assessed; (2) powered
166 by an internal combustion engine that uses petroleum as its fuel source; and (3) provides passenger
167 capacity or payload capacity the same or similar to the alternative fuel vehicle to which it is being
168 compared. The department of environmental protection shall publish an annual list, to be updated as
169 needed, of comparable conventionally-fueled motor vehicles.

170 "Incremental cost", the difference between the price paid for the alternative fuel vehicle and the
171 average retail cost of a comparable conventionally-fueled motor vehicle. The department of
172 environmental protection shall publish an annual list, to be updated as needed, of the average retail

173 prices of comparable conventionally-fueled motor vehicles to be used as the basis for determining
174 incremental cost.

175 Sales of materials, tools and machinery and replacement parts thereof, used directly and exclusively
176 for converting a conventionally-fueled motor vehicle to an alternative fuel vehicle; and sales of any
177 new alternative fuel vehicle, but only that portion of a sale which is the incremental cost of the
178 alternative fuel vehicle. The exemption provided in this subsection shall not apply to any such sales
179 made after December thirty-first, two thousand and four.

180 (ss) Sales of materials, tools and machinery and replacement parts thereof used directly and
181 exclusively to dispense alternative fuel into alternative fuel vehicles. The exemption provided in this
182 subsection shall not apply to any such sales made after December thirty-first, two thousand and four.

183 (tt) Sales of alternative fuel when dispensed into an alternative fuel vehicle. The exemption provided
184 in this subsection shall not apply to any such sales made after December thirty-first, two thousand and
185 four.

186 SECTION 8. Chapter 164 of the General Laws, as appearing in the 2000 Official Edition, is
187 hereby amended by striking section 94 1/2 and inserting in place thereof the following section:-

188 Section 94 1/2. As used in this subsection, the following words and phrases shall have the following
189 meanings:

190 "Alternative fuel", any fuel designated as such on an annual list issued by the department of
191 environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures
192 containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols
193 with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels;
194 fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar

195 energy); and any other fuel that the department of environmental protection determines is substantially
196 not petroleum.

197 "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the
198 department of environmental protection determines to: (1) operate exclusively on an alternative fuel;
199 and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative
200 fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall
201 meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in
202 regulations promulgated by the department of environmental protection, for total vehicle emissions.
203 For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the
204 alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The
205 department of environmental protection shall publish an annual list of alternative fuel vehicles.

206 Notwithstanding the provisions of section 94, or any other special or general law to the contrary, the
207 rates and terms for the sale of alternative fuels for motor vehicle use shall not be subject to regulation
208 by the department of public utilities; provided, however, that any gas or electric company which is
209 otherwise regulated pursuant to this chapter and sells alternative fuels for motor vehicle use, shall keep
210 separate records, books, and accounts of such unregulated sales sufficient to allow the department of
211 public utilities to allocate costs and revenues; and provided further, that such gas or electric company's
212 sale of alternative fuel for use in motor vehicles and investment in related infrastructure shall not affect
213 the quality of service or increase the cost of alternative fuel to said company's customers who purchase
214 alternative fuel for uses other than motor vehicle use.