

REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(White, Limehouse, Bingham, Pitts & Herbkersman - Staff Contact: Alyssa Weeks)

SENATE BILL 1075

S. 1075 -- Senators Campbell, Hayes and Grooms: A BILL TO AMEND SECTION 12-28-110 OF THE 1976 CODE, RELATING TO DEFINITIONS PERTAINING TO MOTOR FUELS, TO AMEND CERTAIN DEFINITIONS; TO AMEND SECTION 56-5-4160 OF THE 1976 CODE, RELATING TO VEHICLE WEIGHTS AND LOADS, TO PROVIDE ADDITIONAL WEIGHT ALLOWANCES FOR MOTOR VEHICLES FUELED BY ALTERNATIVE FUEL; TO AMEND SECTION 12-37-2820, RELATING TO THE ASSESSMENT OF MOTOR VEHICLES, TO CLARIFY A DEFINITION AS IT RELATES TO MOTOR VEHICLES FUELED BY ALTERNATIVE FUEL; TO ADD SECTION 12-6-3695, RELATING TO INCOME TAX CREDITS, TO ALLOW AN INCOME TAX CREDIT TO A TAXPAYER WHO PURCHASES OR CONSTRUCTS AND INSTALLS AND PLACES IN SERVICE IN THIS STATE ELIGIBLE PROPERTY THAT IS USED FOR DISTRIBUTION, DISPENSING, OR STORING ALTERNATIVE FUEL AT A NEW OR EXISTING FUEL DISTRIBUTION OR DISPENSING FACILITY, AND TO SPECIFY THE AMOUNT OF THE CREDIT AND THE REQUIREMENTS OF THE CREDIT; AND TO ADD SECTION 12-6-3697, RELATING TO INCOME TAX CREDITS, TO ALLOW FOR AN INCOME TAX CREDIT FOR THE INCREMENTAL COSTS OR CONVERSION COSTS OF THE AMOUNT EXPENDED TO PURCHASE OR CONVERT AN ALTERNATIVE FUEL HEAVY-DUTY VEHICLE, ALTERNATIVE FUEL VEHICLE, AND A BI-FUEL ALTERNATIVE FUEL VEHICLE, AND TO SPECIFY THE AMOUNT OF THE CREDITS AND THE REQUIREMENTS OF THE CREDIT.

Summary of Bill:

Includes liquefied natural gas (LNG) as an "Alternative Fuel" in South Carolina and clarifies "alternative fuel" as a "motor fuel".

Provides a 2,000 lb. weight exemption for commercial vehicles fueled by natural gas on state roads and highways.

Allows heavy duty commercial motor vehicles operating on natural gas to be assessed up to 30% less than diesel vehicles (due to a significantly higher purchase price) and establishes a 10-year sunset.

Provides an income tax credit for alternative fuel filling stations and establishes a 10-year sunset.

Provides an income tax credit up to \$12,000 per vehicle for the purchase of a commercial alternative fuel or bi-fuel vehicle. Includes a 50% liability threshold for

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

claiming a credit on a taxpayer's income tax or corporate license fee, a 51% in-state mileage requirement, and a five-year sunset.

Allows the transfer of income tax credits from a public entity to any entity to support development of fleets.

Includes DOR technical clarifications (Adopted – H. 4328, Act 160 of 2016) – Codification of diesel/gasoline gallon conversion factors; prevention of double taxation of natural gas used as a fuel; and ensure all modes of transportation are included in Section 12-28-1125(A).

See attached for section-by-section summary.

Estimated Revenue Impact:

The bill as amended is expected to reduce General Fund revenue by \$371,850 from allowing an income tax credit for purchasing or installing an alternative fueling station and \$1,125,000 for allowing an income tax credit for the conversion cost or incremental cost of purchasing an alternative fuel vehicle. Total revenue impact to the General Fund would be a reduction of \$1,496,850.

Motor carrier property tax revenue (local) would be reduced by \$7,253 from reducing the gross capitalized cost of alternative fueled vehicles by thirty percent.

This bill has no expenditure impact to the General Fund, Federal Funds, or Other Funds.

Subcommittee Recommendation:

Favorable

SECTION-BY-SECTION ANALYSIS OF S. 1075
(Alternative Fuel Vehicles and Infrastructure)

SECTION 1. **Subsections A, B, and C** amend definitions in Section 12-28-110 dealing with motor fuels subject to user fees. Subsection A adds the term “liquefied natural gas” to the definition of “alternative fuel.” Subsections B and C add the term “alternative fuel” to the definitions of “motor fuel” and “motor fuel subject to the user fee.” There is no fiscal impact associated with these changes.

Subsection D adds new definitions to Section 12-28-110 for “diesel gallon equivalent” or “DGE” and “gasoline gallon equivalent” or “GGE”. These new definitions set out the amount of liquefied natural gas, compressed natural gas, or liquefied petroleum gas that equals the same energy content as one gallon of gasoline for purposes of calculating the motor fuel user fee. There is no fiscal impact associated with these changes. *These definitions have already been enacted into law as part of H. 4328, Act No. 160 (White), and the language is identical to that in H. 4328.*

Subsection E adds a new Section 12-28-120 to clarify that liquefied natural gas is measured in DGEs, and compressed natural gas and liquefied petroleum gas are measured in GGEs. Also, if there is a gaseous product for which there is no statutory conversion factor, the South Carolina Department of Revenue (“DOR”) is authorized to establish a temporary conversion factor and then submit a recommended legislative change to the General Assembly. There is no fiscal impact associated with this change. *These provisions have already been enacted into law as part of H. 4328, and the language is identical.*

Subsection F adds a new subsection 12-36-2120(15) to provide a sales tax exemption to an individual or entity who purchases natural gas and then compresses or liquefies the gas to use as fuel. This subsection ensures that the taxpayer will not be subject to double taxation by having to pay both sales tax and the motor fuel user fee. This subsection does not have a revenue impact because DOR is not currently collecting sales tax. *This subsection has been enacted into law as part of H. 4328, and the language is identical.*

Subsection G is a technical change requested by DOR to clarify that motor fuel shipped into this State “by any means” must obtain an occasional importer’s license or bonded importer’s license. There is no revenue impact associated with this change. *This subsection was also enacted into law as part of H. 4328, and the language is identical.*

SECTION 2. This section provides up to a 2,000 lb. weight exemption for large commercial vehicles fueled by natural gas on State roads and highways. The federal FAST Act of 2015 codified this exemption for interstate highways. The exemption accounts for the increased weight of the fuel system components for LNG/CNG vehicles over traditional diesel commercial vehicles. The revenue generated from overweight fines is expected to be minimal in FY 2016-17. *This language is almost identical to Section 5 of H. 4932 (Allison) which passed the House on April 13, 2016, and was recently favorably reported by the Senate Transportation Committee.*

SECTION 3. This section amends the definition of “gross capitalized cost” in Section 12-37-2820(B), dealing with motor carriers. It provides up to a 30% reduction in the gross capitalized cost for heavy duty commercial motor vehicles using an alternative fuel to account for the significantly higher purchase price of such vehicles. This section is applicable to vehicles acquired

after 2015 but before 2026 and is limited to the first 10 property tax years after acquisition of the vehicle. This section would result in a \$7,253 reduction in motor carrier local property tax revenues for FY 2016-17. (This is a reduction from an estimated impact of \$72,727 for the bill as introduced. The reduction is due to the sunset language added by the Senate and to an amendment requested by the South Carolina Association of Counties to limit the reduction to the differential cost, not to exceed 30% of the total acquisition cost of the vehicle.)

SECTION 4. This section would provide an income tax credit constructing and installing infrastructure to service alternative fuel vehicles. A taxpayer would be allowed a credit equal to 25% of the cost of purchasing, constructing, and installing eligible property that is used for distribution, dispensing, or storing alternative fuel. This credit is similar to the credit available for biodiesel/ethanol currently in Section 12-6-3610, but it does not include the production portion. The credit must be taken in three annual installments beginning in the year that the property is placed in service. The unused portion of the credit may be carried forward for not more than 10 succeeding years. To claim the credit, taxpayers must place the property or facility in service before January 1, 2026. For purposes of this section “taxpayer” is defined to include the State, its agencies, or local governments to allow the governmental entity to transfer any applicable credit to a private entity who could then provide a more competitive price to the governmental entity. The estimate reduction in State income tax revenue would be \$371,850 in FY 2016-17. (This is a reduction from the original estimated revenue impact of \$502,500.)

SECTION 5. This section would provide a tax credit for the incremental costs or conversion costs of purchasing a commercial alternative fuel vehicle. Alternative fuel is defined as liquefied petroleum gas, liquid natural gas, or compressed natural gas. The credits are as follows:

- 50% of the incremental or conversion costs for alternative fuel heavy duty vehicles, not to exceed \$12,000;
- 50% of the incremental or conversion costs of other alternative fuel vehicles, not to exceed \$8,000; and
- 50% of the incremental or conversion costs of bi-fuel alternative fuel vehicles not to exceed \$6,000.

The credit is limited to 50% of either the taxpayer’s income tax liability for the taxable year or corporate license fees for the taxable year. The credit is nonrefundable but may be carried forward for 7 years. The credit may be transferred by a governmental entity like the infrastructure credit. The credits authorized by this section are allowed for purchases or conversions made after December 31, 2015, but before January 1, 2021. The taxpayer must certify that the vehicle will accumulate at least 51% of its mileage in this State each year for a 5-year period and that the vehicle will be registered here for no less than 5 years. The total estimated revenue impact from the reduction in income tax and corporate license fee revenue is \$1,125,000 in FY 2016-17. (This is a reduction from the initial estimated impact of \$2,250,000 due to the limitations the Senate added on how the credits may be taken and shortening the carry-forward from 10 years to 7 years.)

SECTION 6. This section provides that the legislation takes effect upon approval by the Governor.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 1075 As amended by the Senate Finance Sales and Income Tax Subcommittee on March 15, 2016

Author: Campbell

Subject: Income Tax Credit

Requestor: Senate Finance

RFA Analyst(s): Dunbar and Jolliff

Impact Date: March 22, 2016

Estimate of Fiscal Impact

	FY 2016-17	FY 2017-18
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	(\$1,496,850)	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	(\$7,253)	\$0

Fiscal Impact Summary

This bill would have no expenditure impact to the General Fund, Federal Funds, or Other Funds. The bill as amended is expected to reduce General Fund revenue by \$371,850 from allowing an income tax credit for purchasing or installing an alternative fueling station and \$1,125,000 for allowing an income tax credit for the conversion cost or incremental cost of purchasing an alternative fuel vehicle. Motor carrier property tax revenue would be reduced by \$7,253 from reducing the gross capitalized cost of alternative fueled vehicles by thirty percent. In sum, the bill as amended would reduce General Fund revenue by \$1,496,850 and local revenue by \$7,253 in FY 2016-17.

Explanation of Fiscal Impact

Explanation of Amendment by the Senate Finance Sales and Income Tax Subcommittee on March 15, 2016

State Expenditure

The Department of Revenue indicates that this bill will have no expenditure impact to the General Fund, Federal Funds, or Other Funds.

State Revenue

Section 1. This section amends Section 12-28-110 by adding the term liquefied natural gas to the definition of alternative fuel. It also adds the definition of diesel gallon equivalent and gasoline gallon equivalent to clarify the amount of natural or petroleum gas that has the equivalent energy of one gallon of diesel or gasoline fuel, respectively. The Department of

Revenue reports that liquefied natural gas is currently taxed at the motor fuel user fee of \$0.1675 per gallon, or at the equivalent diesel gallon rate.

Section 12-28-120 is also added to clarify that a gallon of liquefied natural gas means diesel gallon equivalent (DGE), and that a gallon of compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent (GGE). For any gaseous product that for which a conversion factor is not provided in this chapter, the Department of Revenue shall determine a conversion factor, based on the best information available, and notify the General Assembly that a legislative change is necessary.

Section 12-36-2120(15) is amended to exempt a taxpayer with a miscellaneous fuel user fee license from remitting the sales and use tax on natural gas and liquefied petroleum gas as an alternative fuel sold to the licensee. Currently, sales and use tax is not levied against the sale of motor fuel. According to the Department of Revenue, there are seventy miscellaneous fuel user fee licenses issued to taxpayers. This section is amended to remove the burden of remitting any motor fuel tax due as the result of withdrawal of motor fuel for personal use from being a statutory requirement to being a voluntary submission.

Section 12-28-1125(A) is amended to allow motor fuel shipped into this state "by any means" into storage facilities, and replaces language that describes several different types of shipping methods of motor fuel. The individual that brings motor fuel into this state would still have to be licensed by the Department of Revenue and obtain an occasional importer's license or a bonded importer's license. This section of the bill would have no revenue impact.

Section 2. Section 56-5-4160, relating to vehicle and load weight limit, is amended to allow up to an additional two thousand pounds in gross, single axle, tandem axle, or bridge formula weight limits, including tolerances, for any motor vehicle that is fueled primarily by natural gas up to a maximum gross weight of 82,000 pounds on the interstate. To be eligible for the exemption, the operator of the vehicle must be able to demonstrate that the vehicle is powered by natural gas. Based upon the most recent data from the U.S. Department of Energy, the number of vehicles that would qualify for the exemption is very small and varies from year to year. In most years, zero vehicles would qualify. Therefore, the expected revenue generated from overweight fines from this section is minimal in FY 2016-17.

Section 4. This section allows an income tax credit equal to twenty-five percent of the cost to the taxpayer of purchasing, constructing, and installing property that is used for distributing, dispensing, or storing alternative fuel. The credit may be taken in three annual installments beginning with the taxable year in which the property is placed in service. Based upon the most recent information from the U.S. Department of Energy's Alternative Fuels Data Center, there are currently fifty-six alternative fuel dispensing stations in South Carolina. Based upon data from the U.S. Department of Energy and the Natural Gas Vehicles for America Organization, the average cost of an alternative fuel station is \$1,005,000. Applying the expected growth rate of alternative fuel vehicles in South Carolina to the number of alternative fueling stations would result in an additional six fueling stations at a total estimated cost of \$6,030,000 in FY 2016-17. The unused portion of any unexpired credit may be carried forward for no more than ten succeeding taxable years. Any state agency or instrumentality, authority, or political

subdivision, including municipalities may transfer any applicable credit. Based on the corporate income tax credit data from the Department of Revenue's FY 2013-14 Annual Report, we estimate that seventy-four percent of the earned credits will be used, with the remaining twenty-six percent carried forward. The corresponding reduction in income tax revenue from the twenty-five percent tax credit and the three-year installment requirement would be \$371,850 in FY 2016-17.

Section 5. This section allows a nonrefundable income tax credit for the incremental cost or conversion cost of purchasing or converting an alternative fuel heavy-duty vehicle, alternative fuel vehicle, or bi-fuel alternative vehicle for commercial purposes. The taxpayer is allowed a credit of fifty percent of the incremental or conversion cost not to exceed twelve thousand dollars, eight thousand dollars, or six thousand dollars for an alternative fuel heavy-duty vehicle, alternative fuel vehicle, or bi-fuel alternative vehicle, respectively. The credit allowed in this section is limited to fifty percent of either the taxpayer's income tax liability or the taxpayer's corporate license fees.

A taxpayer must weigh the options of buying a new qualified alternative vehicle or having an existing vehicle converted to accept the alternative fuel. There are several deciding factors including:

1. A new qualified alternative fueled motor vehicle will cost more up front. An alternative fueled motor vehicle will cost several thousand dollars more than a conventionally fueled motor vehicle.
2. The conversion of an existing motor vehicle to an alternative fueled motor vehicle can range from \$8,000 to \$12,000, or more, per vehicle.
3. Finding a mechanic that is fully trained and possess all of the necessary certifications and credentials may be difficult. It may cost a repair garage upward of \$100,000 to become certified to make vehicle conversions.
4. Finding alternative fuel stations can be difficult. There are less than 1,000 CNG fueling stations across the country. This will hamper the ability of vehicles to take long trips or to reach particular parts of the country.
5. According to the latest figures from the U.S. Department of Energy, *Clean Cities Alternative Fuel Price Report*, the nationwide average price of regular gasoline is \$1.98 per gallon and diesel gasoline is \$2.23 per gallon. The average price of compressed natural gas is \$2.09 per gasoline gallon equivalent.

Based on these points, we believe that a buyer of an alternative fueled vehicle would be better off buying a new alternative fuel vehicle rather than investing in the conversion of an existing conventionally fueled motor vehicle. A buyer would be indifferent to a \$10,000 after market conversion by a third party with a ten percent conversion credit versus buying a new alternative fuel motor vehicle that is priced \$10,000 higher than a conventional motor vehicle. Based upon the U.S. Department of Energy estimates, there will be 450 new alternative fuel vehicles

purchased in FY 2016-17. The average incremental cost of an alternative fuel vehicle is \$10,000 for a total of \$4,500,000 in FY 2016-17. The corresponding reduction in income tax revenue due to the refundable credit is \$2,250,000, of which a tax payer may take fifty percent as a credit against either their income tax liability or their corporate license fees for the year. The total estimated reduction in income tax and corporate license fee revenue from this credit is \$1,125,000 for FY 2016-17.

Local Expenditure

N/A

Local Revenue

Section 3. This section amends the definition of gross capitalized cost so that the valuation basis of a motor vehicle fueled wholly or partially by natural gas or propane is comparable to that of a diesel or gasoline powered vehicle. The gross capitalized cost of a motor vehicle fueled wholly or partially with natural gas or propane is reduced by a dollar amount of thirty percent of its original value. The amendment applies only to vehicles acquired after 2015 and before 2026. Based upon collections from the South Carolina Department of Revenue, the total estimated motor carrier property tax revenue is \$21,394,000 for FY 2016-17. This estimate reflects flat growth in assessed value for motor carrier property and our anticipation that fleet replacement is slowing compared to recent years. Based upon flat growth in vehicle value and assuming that the value of the existing fleet declines by ten percent for the annual depreciation allowance, ten percent of the estimated revenue, or \$2,139,400, is for fleet replacement. Based upon data from the U.S. Department of Energy, 1.13 percent of motor carriers over 26,000 pounds are powered by alternative fuel. Multiplying the estimated \$2,139,400 revenue for new vehicles by 1.13 percent yields an estimated \$24,175 in motor carrier property tax revenue due to new alternative vehicles for FY 2016-17. Reducing the valuation basis of these vehicles by thirty percent would result in a \$7,253 reduction in motor carrier local property tax revenue in FY 2016-17.

Explanation of Bill Filed February 10, 2016

State Expenditure

The Department of Revenue indicates that this bill will have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

State Revenue

Section 1. This section amends Section 12-28-110 by adding the term liquefied natural gas to the definition of alternative fuel. It also adds the definition of diesel gallon equivalent to clarify the amount of liquefied natural gas that has the equivalent energy of one gallon of diesel fuel. The Department of Revenue reports that liquefied natural gas is currently taxed at the motor fuel user fee of \$0.1675 per gallon, or at the equivalent diesel gallon rate. Therefore, this section of the bill would have no revenue impact.

Section 2. Section 56-5-4160, relating to vehicle and load weight, is amended to allow up to an additional two thousand pounds in gross, single axle, tandem axle, or bridge formula weight limits for any motor vehicle that is fueled, wholly or partially, by natural gas. To be eligible for the exemption, the operator of the vehicle must be able to demonstrate that the vehicle is powered by natural gas. Based upon the most recent data from the U.S. Department of Energy,

the number of vehicles that would qualify for the exemption is very small and varies from year to year. In most years, zero vehicles would qualify. Therefore, the expected revenue generated from overweight fines from this section is minimal in FY 2016-17.

Section 4. This section allows an income tax credit equal to twenty-five percent of the cost to the taxpayer of purchasing, constructing, and installing property that is used for distributing, dispensing, or storing alternative fuel. The credit may be taken in three annual installments beginning with the taxable year in which the property is placed in service. Based upon the most recent information from the U.S. Department of Energy's Alternative Fuels Data Center, there are currently fifty-six alternative fuel dispensing stations in South Carolina. Based upon data from the U.S. Department of Energy and the Natural Gas Vehicles for America Organization, the average cost of an alternative fuel station is \$1,005,000. Applying the expected growth rate of alternative fuel vehicles in South Carolina to the number of alternative fueling stations would result in an additional six fueling stations for a total estimated cost of \$6,030,000 in FY 2016-17. The corresponding reduction in income tax revenue from the twenty-five percent tax credit and the three-year installment requirement would be \$502,500 in FY 2016-17.

Section 5. This section allows a nonrefundable income tax credit for the incremental costs or conversion costs of purchasing or converting an alternative fuel heavy-duty vehicle, alternative fuel vehicle, or bi-fuel alternative vehicle for commercial purposes. The taxpayer is allowed a credit of fifty percent of the incremental or conversion costs not to exceed twelve thousand dollars, eight thousand dollars, or six thousand dollars for an alternative fuel heavy-duty vehicle, alternative fuel vehicle, or bi-fuel alternative vehicle, respectively.

A taxpayer must weigh the options of buying a new qualified alternative vehicle or having an existing vehicle converted to accept the alternative fuel. There are several deciding factors including:

6. A new qualified alternative fueled motor vehicle will cost more up front. An alternative fueled motor vehicle will cost several thousand dollars more than a conventionally fueled motor vehicle.
7. The conversion of an existing motor vehicle to an alternative fueled motor vehicle can range from \$8,000 to \$12,000, or more, per vehicle.
8. Finding a mechanic that is fully trained and possess all of the necessary certifications and credentials may be difficult. It may cost a repair garage upward of \$100,000 to become certified to make vehicle conversions.
9. Finding alternative fuel stations can be difficult. There are less than 1,000 CNG fueling stations across the country. This will hamper the ability of vehicles to take long trips or to reach particular parts of the country.
10. According to the latest figures from the U.S. Department of Energy, *Clean Cities Alternative Fuel Price Report*, the nationwide average price of regular gasoline is \$1.98

per gallon and diesel gasoline is \$2.23 per gallon. The average price of compressed natural gas is \$2.09 per gasoline gallon equivalent.

Based on these points, we believe that a buyer of an alternative fueled vehicle would be better off buying a new alternative fuel vehicle rather than investing in the conversion of an existing conventionally fueled motor vehicle. A buyer would be indifferent to a \$10,000 after market conversion by a third party with a ten percent conversion credit versus buying a new alternative fuel motor vehicle that is priced \$10,000 higher than a conventional motor vehicle. Based upon the U.S. Department of Energy estimates, there will be 450 new alternative fuel vehicles purchased in FY 2016-17. The average incremental cost of an alternative fuel vehicle is \$10,000 for a total of \$4,500,000 in FY 2016-17. The corresponding reduction in income tax revenue due to the refundable credit is \$2,250,000.

Local Expenditure

N/A

Local Revenue

Section 3. This section amends the definition of gross capitalized cost so that the valuation basis of a motor vehicle fueled wholly or partially by natural gas or propane is comparable to that of a diesel or gasoline powered vehicle. The gross capitalized cost of a motor vehicle fueled wholly or partially with natural gas or propane is reduced by a dollar amount of thirty percent of its original value. Based upon data from the U.S. Department of Energy, 1.13% of motor carriers over 26,000 pounds are powered by alternative fuel. Based upon collections from the South Carolina Department of Revenue, the total estimated motor carrier property tax revenue is \$21,394,000 for FY 2016-17. The corresponding amount of motor carrier property tax revenue due to alternative vehicles is \$242,424 for FY 2016-17. Reducing the valuation basis of these vehicles by thirty percent would result in a \$72,727 reduction in motor carrier property tax revenue.



Frank A. Rainwater, Executive Director

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 COMMITTEE AMENDMENT ADOPTED

5 April 7, 2016

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S. 1075

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Introduced by Senators Campbell, Hayes and Grooms

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10 S. Printed 3/7/16--S.

[SEC 4/11/16 3:58 PM]

11 Read the first time February 10, 2016.

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A BILL

TO AMEND SECTION 12-28-110 OF THE 1976 CODE, RELATING TO DEFINITIONS PERTAINING TO MOTOR FUELS, TO AMEND CERTAIN DEFINITIONS; TO AMEND SECTION 56-5-4160 OF THE 1976 CODE, RELATING TO VEHICLE WEIGHTS AND LOADS, TO PROVIDE ADDITIONAL WEIGHT ALLOWANCES FOR MOTOR VEHICLES FUELED BY ALTERNATIVE FUEL; TO AMEND SECTION 12-37-2820, RELATING TO THE ASSESSMENT OF MOTOR VEHICLES, TO CLARIFY A DEFINITION AS IT RELATES TO MOTOR VEHICLES FUELED BY ALTERNATIVE FUEL; TO ADD SECTION 12-6-3695, RELATING TO INCOME TAX CREDITS, TO ALLOW AN INCOME TAX CREDIT TO A TAXPAYER WHO PURCHASES OR CONSTRUCTS AND INSTALLS AND PLACES IN SERVICE IN THIS STATE ELIGIBLE PROPERTY THAT IS USED FOR DISTRIBUTION, DISPENSING, OR STORING ALTERNATIVE FUEL AT A NEW OR EXISTING FUEL DISTRIBUTION OR DISPENSING FACILITY, AND TO SPECIFY THE AMOUNT OF THE CREDIT AND THE REQUIREMENTS OF THE CREDIT; AND TO ADD SECTION 12-6-3697, RELATING TO INCOME TAX CREDITS, TO ALLOW FOR AN INCOME TAX CREDIT FOR THE INCREMENTAL COSTS OR CONVERSION COSTS OF THE AMOUNT EXPENDED TO PURCHASE OR CONVERT AN ALTERNATIVE FUEL HEAVY-DUTY VEHICLE, ALTERNATIVE FUEL VEHICLE, AND A BI-FUEL ALTERNATIVE FUEL VEHICLE, AND TO SPECIFY THE AMOUNT OF THE CREDITS AND THE REQUIREMENTS OF THE CREDIT.

Amend Title To Conform

1 Be it enacted by the General Assembly of the State of South
2 Carolina:

3
4 SECTION 1. A. Section 12-28-110(1) of the 1976 Code is
5 amended to read:

6
7 “(1) ‘Alternative fuel’ means a liquefied petroleum gas, liquefied
8 natural gas, compressed natural gas product, or a combination of
9 liquefied petroleum gas and a compressed natural gas product used
10 in an internal combustion engine or motor to propel any form of
11 vehicle, machine, or mechanical contrivance. It includes all forms
12 of fuel commonly or commercially known or sold as butane,
13 propane, liquefied natural gas, or compressed natural gas.”
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15 B. Section 12-28-110(39) of the 1976 Code is amended to read:

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17 “(39) ‘Motor fuel’ means gasoline, diesel fuel, substitute fuel,
18 renewable fuel, alternative fuel, and blended fuel.”
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20 C. Section 12-28-110(55) of the 1976 Code is amended to read:

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22 “(55) ‘Motor fuel subject to the user fee’ means gasoline, diesel
23 fuel, kerosene, blended fuel, substitute fuel, alternative fuel and
24 blends of them and any other substance blended with them.”
25

26 D. Section 12-28-110 of the 1976 Code is amended by adding two
27 appropriately numbered items to read:

28
29 “() ‘Diesel gallon equivalent’ or ‘DGE’ means the amount of
30 liquefied natural gas containing the same energy content as one
31 gallon of diesel. For purposes of calculating the motor fuel user fee
32 on liquefied natural gas that is used or consumed in this State in
33 producing or generating power for propelling a motor vehicle, each
34 6.06 pounds of liquefied natural gas equals one gallon of motor fuel.

35 () ‘Gasoline gallon equivalent’ or ‘GGE’ means the amount
36 of compressed natural gas or liquefied petroleum gas containing the
37 same energy content as one gallon of gasoline. For purposes of
38 calculating the motor fuel user fee on compressed natural gas or
39 liquefied petroleum gas that is used or consumed in South Carolina
40 in producing or generating power for propelling a motor vehicle,
41 each 126.67 cubic feet of compressed natural gas, or 5.66 pounds if
42 the compressed natural gas is dispensed via a mass flow meter,

1 equals one gallon of motor fuel and each gallon of liquefied
2 petroleum gas equals .73 of a gallon of motor fuel.”

3
4 E. Article 1, Chapter 28, Title 12 of the 1976 Code is amended by
5 adding:

6
7 “Section 12-28-120. For purposes of this chapter, any reference
8 to the term gallon with respect to liquefied natural gas means diesel
9 gallon equivalent (DGE) and any reference to the term gallon with
10 respect to compressed natural gas or liquefied petroleum gas means
11 gasoline gallon equivalent (GGE). For any gaseous product for
12 which a conversion factor is not provided for in this chapter, based
13 on the best information available, the department shall establish a
14 temporary conversion factor to determine the gallon equivalent.
15 The department shall subsequently submit to the General Assembly
16 a recommended legislative change for this conversion factor.”

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18 F. Section 12-36-2120(15) of the 1976 Code is amended by adding
19 two appropriately lettered subitems to read:

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21 “() natural gas sold to a person with a miscellaneous motor fuel
22 user fee license pursuant to Section 12-28-1139 who will compress
23 it to produce compressed natural gas, or cool it to produce liquefied
24 natural gas, for use as a motor fuel and remit the motor fuel user fees
25 as required by law; and

26 () liquefied petroleum gas sold to a person with a
27 miscellaneous motor fuel user fee license pursuant to Section
28 12-28-1139 who will use the liquefied petroleum gas as a motor fuel
29 and remit the motor fuel user fees as required by law;”

30
31 G. Section 12-28-1125(A) of the 1976 Code is amended to read:

32
33 “(A)Each person who wishes to cause motor fuel subject to the
34 user fee to be delivered into this State on his behalf, for his own
35 account, or for resale to a purchaser in this State, from another state
36 ~~in a fuel transport truck or in a pipeline or barge shipment~~ by any
37 means into storage facilities other than a qualified terminal, shall
38 apply and obtain an occasional importer’s license or a bonded
39 importer’s license, at the discretion of the applicant.”

40
41 SECTION 2. Section 56-5-4160 of the 1976 Code, as last amended
42 by Act 234 of 2008, is further amended by adding an appropriately
43 lettered subsection to read:

1
2 “() Any motor vehicle that is fueled primarily by natural gas
3 may exceed the gross, single axle, tandem axle, or bridge formula
4 weight limits, including tolerances, by no more than 2,000 pounds
5 each individually weighed, up to a maximum gross vehicle weight
6 of 82,000 pounds on the interstate, by an amount that is equal to the
7 difference between: the weight of the vehicle attributable to the
8 natural gas tank and fueling system carried by that vehicle and the
9 weight of a comparable diesel tank and fueling system. This
10 subsection only applies if the operator of the vehicle can
11 demonstrate that the vehicle is a natural gas vehicle, a biofuel
12 vehicle using natural gas, or a vehicle that has been converted to a
13 natural gas vehicle. The operator shall provide documentation
14 which certifies the difference between the weight of the vehicle
15 attributable to the natural gas tank and fueling system carried by that
16 vehicle and the weight of a comparable diesel tank and fueling
17 system.”

18
19 SECTION 3. A. Section 12-37-2820(B) of the 1976 Code is
20 amended to read:

21
22 “(B) ‘Gross capitalized cost’, as used in this section, means the
23 original cost upon acquisition for income tax purposes, not to
24 include taxes, interest, or cab customizing. However, for a motor
25 vehicle which is fueled wholly or partially by alternative fuel as
26 defined in Section 12-28-110(1), and that was acquired after 2015
27 but before 2026, the gross capitalized cost is reduced by the
28 differential costs of a comparable diesel or gasoline powered
29 vehicle, not to exceed thirty percent of the total acquisition cost of
30 the motor vehicle. This reduction shall apply for the first ten
31 property tax years for which tax is due following the acquisition of
32 the vehicle.”

33
34 B. This SECTION first applies to property tax years beginning after
35 2015.

36
37 SECTION 4. A. Article 25, Chapter 6, Title 12 of the 1976 Code is
38 amended by adding:

39
40 “Section 12-6-3695. (A)(1) A taxpayer who purchases or
41 constructs and installs and places in service in this State eligible
42 property that is used for distribution, dispensing, or storing
43 alternative fuel specified in this subsection, at a new or existing fuel

1 distribution or dispensing facility, is allowed an income tax credit
2 equal to twenty-five percent of the cost to the taxpayer of
3 purchasing, constructing, and installing the eligible property.

4 (2) The entire credit may not be taken in the taxable year in
5 which the property is placed in service, but must be taken in three
6 equal annual installments beginning with the taxable year in which
7 the property is placed in service. If, in one of the years in which the
8 installment of a credit accrues, property directly and exclusively
9 used for distributing, dispensing, or storing alternative fuel is
10 disposed of or taken out of service and is not replaced, the credit
11 expires and the taxpayer may not claim any remaining installment
12 of the credit.

13 (3) The unused portion of an unexpired credit may be carried
14 forward for not more than ten succeeding taxable years.

15 (4) The taxpayer may transfer any applicable credit associated
16 with this section. To the extent that the taxpayer transfers the credit,
17 the taxpayer must notify the department of the transfer in the manner
18 the department prescribes. Notwithstanding subsection (D), as used
19 in this item, the term 'taxpayer' only applies to the State or any
20 agency or instrumentality, authority, or political subdivision,
21 including municipalities.

22 (5) A taxpayer who claims any other credit allowed pursuant
23 to this article with respect to the costs of constructing and installing
24 a facility may not take the credit allowed in this section with respect
25 to the same costs.

26 (B) The Department of Revenue may require documentation that
27 it considers necessary to administer the credit.

28 (C) To claim the credits allowed in this section, the taxpayer
29 must place the property or facility in service before January 1, 2026.

30 (D) For purposes of this section:

31 (1) 'Eligible property' includes pumps, compressors, storage
32 tanks, and related equipment that is directly and exclusively used for
33 distribution, dispensing, or storing alternative fuel. The equipment
34 used to store, distribute, or dispense alternative fuel must be labeled
35 for this purpose and clearly identified as associated with alternative
36 fuel.

37 (2) 'Alternative fuel' means compressed natural gas, liquefied
38 natural gas, or liquefied petroleum gas, dispensed for use in motor
39 vehicles and compressed natural gas, liquefied natural gas, or
40 liquefied petroleum gas, dispensed by a distributor or facility.

41 (3) 'Taxpayer' means any sole proprietor, partnership,
42 corporation of any classification, limited liability company, or
43 association taxable as a business entity. Also, the word 'taxpayer'

1 includes the State or any agency or instrumentality, authority, or
2 political subdivision, including municipalities.”

3
4 B. This SECTION first applies to tax years beginning after 2015.

5
6 SECTION 5. A. Article 25, Chapter 6, Title 12 of the 1976 Code is
7 amended by adding:

8
9 “Section 12-6-3697. (A) For purposes of this section:

10 (1) ‘Alternative fuel’ means liquidfied petroleum gas, liquid
11 natural gas, or compressed natural gas fuel.

12 (2) ‘Alternative fuel heavy-duty vehicle’ means a new or
13 converted commercial vehicle, with a gross vehicle weight ratio
14 equal to or more than 26,001 pounds, which is primarily fueled by
15 an alternative fuel. As used in this paragraph, ‘primarily fueled by
16 an alternative fuel’ means a vehicle that is produced by an original
17 equipment manufacturer or converted by a third-party equipment
18 manufacturer and operates on ninety percent or more alternative fuel
19 and on ten percent or less gasoline or diesel fuel.

20 (3) ‘Alternative fuel vehicle’ means a new or converted
21 commercial vehicle, with a gross vehicle weight ratio less than
22 26,001 pounds, that is fueled solely by an alternative fuel and that is
23 produced by an original equipment manufacturer or converted by a
24 third-party equipment manufacturer.

25 (4) ‘Bi-fuel alternative fuel vehicle’ means a new or
26 converted commercial vehicle with a gross vehicle weight ratio less
27 than 26,001 pounds, that has two separate fuel systems, one of
28 which is fueled by an alternative fuel and the other by conventional
29 gasoline and that is produced by an original equipment manufacturer
30 or a third-party equipment manufacturer.

31 (5) ‘Conversion cost’ means the cost that results from
32 modifying a motor vehicle which is propelled by gasoline or diesel
33 to be propelled by an alternative fuel. In the case of a bi-fuel
34 alternative fuel vehicle, cost conversion means the cost that results
35 from modifying a motor vehicle to be partially propelled by an
36 alternative fuel.

37 (6) ‘Commercial vehicle’ means any vehicle used for
38 commercial or business purposes owned by a taxpayer.

39 (7) ‘Incremental cost’ means the cost that results from
40 subtracting the manufacturer’s list price of the motor vehicle
41 operating on conventional gasoline or diesel fuel from the
42 manufacturer’s list price of the same model motor vehicle designed
43 to operate on an alternative fuel.

1 (8) 'Taxpayer' means any sole proprietor, partnership,
2 corporation of any classification, limited liability company, or
3 association taxable as a business entity. Also, the word 'taxpayer'
4 includes the State or any agency or instrumentality, authority, or
5 political subdivision, including municipalities.

6 (B)(1) A taxpayer is allowed an income tax credit of fifty percent
7 of the incremental costs or conversion costs of the amount expended
8 to purchase or convert an alternative fuel heavy-duty vehicle. The
9 credit may not exceed twelve thousand dollars for each vehicle.

10 (2) A taxpayer is allowed an income tax credit of fifty percent
11 of the incremental costs or conversion costs of the amount expended
12 to purchase or convert an alternative fuel vehicle. The credit may
13 not exceed eight thousand dollars for each vehicle.

14 (3) A taxpayer is allowed an income tax credit of fifty percent
15 of the incremental costs or conversion costs of the amount expended
16 to purchase or convert a bi-fuel alternative fuel vehicle. The credit
17 may not exceed six thousand dollars for each vehicle.

18 (C) The credit allowed by this section is limited in use to fifty
19 percent of either:

20 (1) the taxpayer's income tax liability for the taxable year if
21 taxpayer claims the credit allowed by this section as a credit against
22 income tax imposed pursuant to Chapter 6; or

23 (2) the taxpayer's corporate license fees for the taxable year
24 if the taxpayer claims the credit allowed by this section as a credit
25 against license fees imposed pursuant to Chapter 20.

26 (D) The tax credit is nonrefundable but unused credits may be
27 carried forward for seven years. The seven-year carry forward
28 period must not be extended due to periods of noncompliance.

29 (E) The taxpayer may transfer any applicable credit associated
30 with this section. To the extent that the taxpayer transfers the credit,
31 the taxpayer must notify the department of the transfer in the manner
32 the department prescribes. Notwithstanding subsection (A), as used
33 in this subsection, the term 'taxpayer' only applies to the State or
34 any agency or instrumentality, authority, or political subdivision,
35 including municipalities.

36 (F) The department shall produce an appropriate form for the
37 taxpayer to submit certifying the following:

38 (1) certification from the manufacturer that the vehicle is an
39 alternative fuel heavy-duty vehicle, alternative fuel vehicle, a bi-fuel
40 alternative fuel vehicle, or a third-party equipment manufacturer
41 who possesses a current and legal Certificate of Conformity from
42 the Environmental Protection Agency's Office of Transportation
43 and Air Quality specific to the qualified alternative fuel vehicle;

1 (2) a sworn affidavit from the taxpayer certifying that the
2 vehicle will accumulate at least fifty-one percent of its mileage in
3 South Carolina in each year for a five-year period, and that the
4 vehicle is registered in this State and will remain registered in South
5 Carolina for no less than five years; and

6 (3) any other information requested by the department.

7 (G) The department may promulgate rules and regulations
8 necessary to implement and administer the provisions of this
9 section, including provisions for repayment of any credit in the
10 event any of the certifications are or become untrue during the
11 five-year period following the date of application.

12 (H) To the extent that the taxpayer is a partnership or a limited
13 liability company taxed as a partnership, the credit may be passed
14 through to the partners or members and may be allocated by the
15 taxpayer among any of its partners or members on an annual basis
16 including, without limitation, an allocation of the entire credit to any
17 partner or member who was a member or partner at any time during
18 the year in which the credit is allocated.

19 (I) The credit authorized by this section is allowed for purchases
20 or conversions made after December 31, 2015, but before January
21 1, 2021.”

22
23 B. This SECTION first applies to tax years beginning after 2015.

24
25 SECTION 6. This act takes effect upon approval by the Governor.

26 ----XX----