~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 23, 2016

**S. 982**

Introduced by Senators Peeler, Grooms and Bryant

S. Printed 3/23/16--S.

Read the first time January 13, 2016.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 982) to amend Section 12‑36‑2120, as amended, Code of Laws of South Carolina, 1976, relating to exemptions from the state sales tax, so as to exempt, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION \_\_. Section 12‑28‑110 of the 1976 Code is amended by adding two appropriately numbered items to read:

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

( ) ‘Gasoline gallon equivalent’ or ‘GGE’ means the amount of compressed natural gas or liquefied petroleum gas containing the same energy content as one gallon of gasoline. For purposes of calculating the motor fuel user fee on compressed natural gas or liquefied petroleum gas that is used or consumed in South Carolina in producing or generating power for propelling a motor vehicle, each 126.67 cubic feet of compressed natural gas, or 5.66 pounds if the compressed natural gas is dispensed via a mass flow meter, equals one gallon of motor fuel and each gallon of liquefied petroleum gas equals .73 of a gallon of motor fuel.”

SECTION \_\_. Article 1, Chapter 28, Title 12 of the 1976 Code is amended by adding:

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

SECTION \_\_. Section 12‑36‑2120(15) of the 1976 Code is amended by adding two appropriately lettered subitems to read:

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

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

SECTION \_\_. Section 12‑28‑1125(A) of the 1976 Code is amended to read:

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

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill, as amended, would not affect state general fund revenue in FY2016-17. This bill would not affect other funds or federal funds revenue in FY2016-17.

**Explanation of Fiscal Impact**

**Explanation of Amendment (March 15, 2016) – By the Senate Finance Committee**

**State Expenditure**

The Department of Revenue indicates that there will be no expenditure impact to the general fund, federal funds, or other funds from this bill. The department can administer the legislative changes with existing resources.

**State Revenue**

This amendment would strike all after the enacting words and insert the following unnumbered sections. The following unnumbered sections are listed sequentially pursuant to document #2EMR7738\982C001.BBM.DG16.docx.

**First Unnumbered Section.** 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 and 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. Therefore, this section of the bill would have no revenue impact.

**Second Unnumbered Section.** This section amends Section 12-28-120 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. This section would not affect state general fund revenue.

**Third Unnumbered Section.**

This unnumbered section would amend Section 12-36-2120(15) to allow a taxpayer with a miscellaneous fuel user fee license to be exempt 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 unnumbered section is amended to remove the phrase “in their own motor vehicles” from the sub-item. This would 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. This section, therefore, would not affect state general fund revenue.

**Fourth Unnumbered Section.**

This unnumbered section would amend Section 12-28-1125(A) 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 would not affect state general fund revenue.

**Explanation of Bill Filed January 13, 2016**

**State Expenditure**

The Department of Revenue indicates that there will be no expenditure impact to the general fund, federal funds, or other funds from this bill. The department can administer the legislative changes with existing resources.

**State Revenue**

This bill would amend Section 12-36-2120(15) to allow a taxpayer with a miscellaneous fuel user fee license to be exempt from remitting the sales and use tax on natural gas as an alternative fuel sold to the licensee. Under current statutes, when a taxpayer withdrawal a portion of their saleable product from inventory for personal use, tax is due and shall be remitted to the Department of Revenue. This bill would allow a taxpayer with a miscellaneous fuel user fee license to withdrawal natural gas for their own personal use as motor fuel in their own motor vehicles and remit the motor fuel use fees as required by law. According to the Department of Revenue, there are seventy miscellaneous fuel user fee licenses issued to taxpayers. If each of the seventy holders of miscellaneous fuel user fee licensees owns two vehicles, an estimated 140 natural gas propelled vehicles may be supplied natural gas out of inventory.

Based on data from the U.S. Department of Energy, Energy Information Administration, an estimated 4,050 vehicles are powered by natural gas or a natural gas blended fuel in South Carolina. The Energy Information Administration forecasts 5,100 vehicles powered by natural gas or a natural gas blended fuel consuming an average of over 420 gallons of gasoline equivalent gallons in each vehicle by FY2016-17. Multiplying 420 gasoline equivalent gallons of natural gas by 140 natural gas or natural gas blended fueled vehicles yields an estimated 58,842 gasoline equivalent gallons of natural gas. Multiplying 58,842 gasoline equivalent gallons of natural gas by a motor fuel tax rate of $0.1675 per gallon yields motor fuel tax revenue of an estimated $9,856 in FY2016-17. This bill, therefore, would increase motor fuel user fee revenue by an estimated $9,856 in FY2016-17.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12‑36‑2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE STATE SALES TAX, SO AS TO EXEMPT NATURAL GAS SOLD TO A PERSON WITH A MISCELLANEOUS FUEL USER FEE LICENSE WHO WILL PRODUCE COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS FOR USE AS MOTOR FUEL IN THEIR OWN MOTOR VEHICLES AND REMIT THE APPLICABLE MOTOR FUEL USER FEES.

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

SECTION 1. Section 12‑36‑2120(15) of the 1976 Code is amended to read:

“(15)(a) motor fuel, blended fuel, and alternative fuel subject to tax under Chapter 28, Title 12; however, gasoline used in aircraft is not exempt from the sales and use tax;

(b) if the fuel tax is subsequently refunded under Section 12‑28‑710, the sales or use tax is due unless otherwise exempt, and the person receiving the refund is liable for the sales or use tax;

(c) fuels used in farm machinery and farm tractors; ~~and~~

(d) fuels used in commercial fishing vessels; and

(e) natural gas sold to a person with a miscellaneous fuel user fee license pursuant to Section 12‑28‑1139, who will compress it to produce compressed natural gas or cool it to produce liquefied natural gas, for use a motor fuel in their own motor vehicles and remit the motor fuel user fees as required by law;”

SECTION 2. This act takes effect July 1, 2016.

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