

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1063

By: Tyler

COMMITTEE SUBSTITUTE

An Act relating to alternative fuels; amending 74 O.S. 1991, Sections 130.2 and 130.8, which relate to the Oklahoma Alternative Fuels Conversion Act; modifying definitions; modifying fuels not to be regulated; amending 74 O.S. 1991, Section 130.13, which relates to the Alternative Fuels Technician Certification Act; modifying definition; amending 68 O.S. 1991, Section 723, as amended by Section 2, Chapter 306, O.S.L. 1992 (68 O.S. Supp. 1992, Section 723), which relates to fee in lieu of special fuel tax; providing for fee in lieu of tax for certain fuels; providing for issuance of a decal for use of certain fuels; adding certain fuels to list regarding display of decal; modifying fuels to be included in certain reporting requirements; amending 68 O.S. 1991, Section 1355, as amended by Section 21, Chapter 339, O.S.L. 1992 (68 O.S. Supp. 1992, Section 1355), which relates to exemptions from sales tax; modifying certain fuels exempt from sales tax; updating statutory reference; amending 68 O.S. 1991, Section 2357.22, as amended by Section 1, Chapter 306, O.S.L. 1992 (68 O.S. Supp. 1992, Section 2357.22), which relates to credit for investments in qualified clean-burning fuel vehicle property; modifying definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 1991, Section 130.2, is amended to read as follows:

Section 130.2 As used in the Oklahoma Alternative Fuels Conversion Act:

1. "Alternative fuels" means fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof and includes compressed natural gas, liquefied petroleum gas, liquefied natural gas, ethanol, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, and electricity;

2. "Diesel fuel" means diesel engine fuel, and all other liquids suitable for the generation of power for the propulsion of motor vehicles except gasoline;

3. "Fill station" means the property which is directly related to the delivery of compressed natural gas, liquefied natural gas ~~or~~, liquefied petroleum gas, methanol, or "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol into the fuel tank of a motor vehicle propelled by such fuel including the compression equipment and storage vessels for such fuel at the point where such fuel is delivered;

4. "Gallon" means the quantity of fluid or liquid at a temperature of sixty (60) degrees Fahrenheit necessary to completely fill a United States standard gallon liquid measure;

5. "Gasoline" means the same as motor fuel and means every liquid petroleum product, or any combination thereof, other than solvents as herein defined, having an A.P.I. gravity of forty-six (46) degrees or above at a temperature of sixty (60) degrees Fahrenheit and at atmospheric pressure, and includes drip, casinghead or natural gasoline. The term gasoline also includes any liquid of less than forty-six (46) degrees A.P.I. gravity at a temperature of sixty (60) degrees Fahrenheit compounded, blended, manufactured or otherwise produced by mixing or blending gasoline or solvents with any blending materials, as hereinafter defined, when the blended product can be used for generating power in internal combustion engines, regardless of how such liquid is made, compounded, manufactured or recovered and regardless of the name by which such liquid may be known or sold;

6. "Government vehicle" means all motor vehicles, including, but not limited to, metropolitan rapid transit motor vehicles, buses, trucks, law enforcement vehicles and emergency vehicles, owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state;

7. "Sale" means sales, barter, exchanges, and every other manner, method, and form of transferring the ownership of personal property from one person to another, and also includes the use or

consumption in this state in the first instance of gasoline received from without the state or of any other gasoline upon which the surcharge has not been paid;

8. "School vehicle" means all buses and multi-passenger motor vehicles owned and approved to operate by the State Department of Education or any school district within this state; and

9. "Solvents" means especially prepared commercial and industrial solvents, cleaners' and painters' naphthas, and raw petroleum materials or petrochemical intermediates when used as or sold for use in production or manufacture of plastics, detergents, synthetic rubber, herbicides, insecticides and other chemicals or products which are not prepared, advertised, offered for sale, or sold for use or suitable for use as fuel for generating power in internal combustion engines.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 130.8, is amended to read as follows:

Section 130.8 The price and sale of natural gas, methanol and "M-85" utilized as a transportation fuel in a motor vehicle shall not be regulated by any governmental entity within this state.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 130.13, is amended to read as follows:

Section 130.13 As used in the Alternative Fuels Technician Certification Act:

1. "Alternative fuel" means fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof and includes compressed natural gas, liquefied petroleum gas, liquefied natural gas, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, ethanol, reformulated gasoline and electricity;

2. "Alternative fuels technician" means any person who installs, modifies, repairs or renovates equipment used in the conversion of any engines to engines fueled by alternative fuels;

3. "Board" means the Alternative Fuels Technician Hearing Board; and

4. "Committee" means the Committee of Alternative Fuels Technician Examiners.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 723, as amended by Section 2, Chapter 306, O.S.L. 1992 (68 O.S. Supp. 1992, Section 723), is amended to read as follows:

Section 723. A. In lieu of the special fuel tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is hereby levied a flat fee of Fifty Dollars (\$50.00) on each passenger automobile, and on each pickup truck or van not exceeding one (1) ton in capacity, using liquefied petroleum gas ~~or~~, natural gas, methanol or "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol as fuel, except that no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title. Provided that, should the passenger automobile, pickup truck or van have been acquired or should the liquefied petroleum gas or natural gas system be installed on or after July 1, the flat fee shall be Twenty-five Dollars (\$25.00) for the remainder of the calendar year, except as hereinafter provided.

B. Beginning January 1, 1991, in lieu of the special fuel tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is hereby levied a flat fee of One Hundred Dollars (\$100.00) on each passenger automobile, and on each pickup truck or van not exceeding one (1) ton in capacity, using compressed natural gas or liquefied natural gas as fuel, except that no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title. Provided that, should the passenger automobile, pickup truck or van have been acquired or should the compressed natural gas or liquefied natural gas system be installed on or after July 1, the flat fee shall be Fifty Dollars (\$50.00) for the remainder of the calendar year, except as hereinafter provided.

C. Beginning January 1, 1993, in lieu of the special fuel tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is hereby levied a flat fee of One Hundred Fifty

Dollars (\$150.00) on each vehicle exceeding one (1) ton in capacity, using liquefied petroleum gas, compressed natural gas ~~or~~, liquefied natural gas, methanol or "M-85" as fuel, except that no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title. Provided that, should the vehicle be acquired or should the compressed natural gas or liquefied natural gas system be installed on or after July 1, the flat fee shall be Seventy-five Dollars (\$75.00) for the remainder of the calendar year, except as hereinafter provided.

D. Every person operating a vehicle using liquefied petroleum gas, liquefied natural gas ~~or~~, compressed natural gas, methanol or "M-85" as fuel shall make application for and obtain a decal to be issued on a yearly basis by the Oklahoma Tax Commission on forms prescribed and furnished by the Tax Commission.

E. Every person required to make application for and receive a decal under this section shall, at the time of making said application, remit to the Tax Commission the total amount of the fee due.

F. Each decal issued by the Tax Commission pursuant to the provisions of this section, shall expire on December 31 of every year, and in addition thereto said decals shall be displayed in the lower right hand corner of the front windshield of said vehicle. Upon receipt of satisfactory proof by the Tax Commission that it has become necessary to replace the windshield of the vehicle for which the decal was issued, another decal shall be issued by the Tax Commission as a replacement for a fee of One Dollar (\$1.00).

G. When any vehicle using liquefied petroleum gas, liquefied natural gas ~~or~~, compressed natural gas, methanol or "M-85" as fuel and displaying a current decal as provided in this section is sold, such decal shall remain with the vehicle sold, unless the equipment installed to enable the vehicle to use liquefied petroleum gas, liquefied natural gas ~~or~~, compressed natural gas, methanol or "M-85" has been removed from the vehicle before the sale.

H. When the aforementioned equipment has been removed before the sale, the seller of the vehicle shall also remove the decal required of vehicles using liquefied petroleum gas, liquefied natural gas ~~or~~, compressed natural gas, methanol or "M-85". The removed decal, a receipt from the Oklahoma Tax Commission showing that the fee required has been paid for the current year, and the payment of a one-dollar fee for duplicate decal shall entitle the seller to make application for and obtain a new decal to be used for the remainder of the year on any vehicle using liquefied petroleum gas, liquefied natural gas ~~or~~, compressed natural gas, methanol or "M-85" in accordance with the provisions of this section.

I. Provisions contained in Sections 701 through 721 of this title shall not apply to any vehicle using liquefied petroleum gas, liquefied natural gas ~~or~~, compressed natural gas, methanol or "M-85".

J. All funds derived from the fee imposed by subsection A of this section shall be deposited annually in the General Revenue Fund of the State Treasury by the Tax Commission. When any person fails to obtain a current decal within thirty (30) days of the date said decal is required as provided in this section, there shall become due and payable a penalty of twenty percent (20%) of the fee in addition to the fee. Said penalty to be deposited in the same manner as the fee pursuant to this subsection.

K. All funds derived from the fee imposed by subsections B and C of this section shall be collected by the Oklahoma Tax Commission and apportioned annually to the State Transportation Fund. When any person fails to obtain a current decal within thirty (30) days of the date such decal is required as provided in this section, there shall become due and payable a penalty of twenty percent (20%) of the fee in addition to the fee. Such penalty shall be deposited in the same manner as the fee pursuant to this subsection.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 1355, as amended by Section 21, Chapter 339, O.S.L. 1992 (68 O.S. Supp. 1992, Section 1355), is amended to read as follows:

Section 1355. Exemptions - Subject to other tax.

There are hereby specifically exempted from the tax levied pursuant to the provisions of this article:

(A) Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, or Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of this title has been, or will be paid;

(B) Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been, or will be paid;

(C) Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of this title. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This subsection shall not operate to increase or repeal the gross production tax levied by the laws of this state;

(D) Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of this title has been, or will be paid;

(E) Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of this title has been paid;

(F) Leases of twenty-four (24) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title; and

(G) Sales of cigarettes or tobacco products to:

1. A federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section ~~±~~ 346 of this ~~act~~ title or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid; or

2. A federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 4 349 or Section ~~40~~ 426 of this ~~act~~ title has been paid.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 2357.22, as amended by Section 1, Chapter 306, O.S.L. 1992 (68 O.S. Supp. 1992, Section 2357.22), is amended to read as follows:

Section 2357.22 A. There shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for investments in qualified clean-burning motor vehicle fuel property placed in service after December 31, 1990.

B. As used in this section, "qualified clean-burning motor vehicle fuel property" means:

1. Equipment installed to modify a motor vehicle which is propelled by gasoline so that the vehicle may be propelled by methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas or liquefied petroleum gas;

2. A motor vehicle originally equipped to be propelled only by compressed natural gas, liquefied natural gas or liquefied petroleum gas, or to be propelled only by methanol or "M-85" but only to the extent of the portion of the basis of such motor vehicle which is attributable to the storage of such fuel, the delivery to the engine of such motor vehicle of such fuel, and the exhaust of gases from combustion of such fuel; or

3. Property which is directly related to the delivery of methanol, "M-85", compressed natural gas, liquefied natural gas or liquefied petroleum gas into the fuel tank of a motor vehicle propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a motor vehicle.

C. The credit provided for in subsection A of this section shall be fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property, except that for qualified

clean-burning motor vehicle fuel property placed in service on or after January 1, 1995, the credit provided for in subsection A of this section shall be twenty percent (20%) of the cost of the qualified clean-burning motor vehicle fuel property.

D. In cases where no credit has been claimed pursuant to subsection C of this section and in which a motor vehicle is purchased by a taxpayer with qualified clean-burning motor vehicle fuel property installed by the manufacturer of such motor vehicle and the taxpayer is unable or elects not to determine the exact basis which is attributable to such property, the taxpayer may claim a credit in an amount not exceeding the lesser of ten percent (10%) of the cost of the motor vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

E. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed three (3) years.

F. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

SECTION 7. This act shall become effective September 1, 1993.

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