

1 ENGROSSED HOUSE
2 BILL NO. 2756

By: Osborn (Leslie), Fetgatter,
O'Donnell, Calvey, Inman
and Virgin of the House

3
4 and

5 David of the Senate

6
7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 2357.22, as last amended by
9 Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
10 2017, Section 2357.22), which relates to tax credits
11 for certain clean burning motor vehicle fuel
12 property; modifying reference to taxable years for
13 which credit may be claimed; modifying definitions;
14 providing tax credits for certain vehicles based on
15 weight; prohibiting tax credits from reducing
16 liability below zero; modifying carryover period;
17 providing for cap on total credits; prescribing
18 formula for computation of cap amount; imposing
19 certain duty on Oklahoma Tax Commission; providing
20 for adjustment to formula; and providing an effective
21 date.

22
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as
last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
2017, Section 2357.22), is amended to read as follows:

Section 2357.22 A. For tax years beginning before January 1,
~~2020~~ 2024, there shall be allowed a one-time credit against the
income tax imposed by Section 2355 of this title for investments in

1 qualified clean-burning motor vehicle fuel property placed in
2 service after December 31, 1990.

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

5 1. Equipment installed to modify a motor vehicle which is
6 propelled by gasoline or diesel fuel so that the vehicle may be
7 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
8 natural gas or liquefied petroleum gas; provided, equipment
9 installed on a vehicle propelled by a hydrogen fuel cell shall only
10 be eligible for tax year 2010. The equipment covered by this
11 paragraph must:

12 a. be new, not previously used to modify or retrofit any
13 vehicle propelled by gasoline or diesel fuel and be
14 installed by an alternative fuels equipment technician
15 who is certified in accordance with the Alternative
16 Fuels Technician Certification Act,

17 b. meet all Federal Motor Vehicle Safety Standards set
18 forth in 49 CFR 571, or

19 c. for any commercial motor vehicle (CMV), follow the
20 Federal Motor Carrier Safety Regulations or Oklahoma
21 Intrastate Motor Carrier Regulations;

22 2. A motor vehicle originally equipped so that the vehicle may
23 be propelled by a hydrogen fuel cell, compressed natural gas,
24 liquefied natural gas or liquefied petroleum gas but only to the

1 extent of the portion of the basis of such motor vehicle which is
2 attributable to the storage of such fuel, the delivery to the engine
3 of such motor vehicle of such fuel, and the exhaust of gases from
4 combustion of such fuel. A motor vehicle originally equipped so
5 that the vehicle may be propelled by a hydrogen fuel cell shall only
6 be eligible for tax year 2010;

7 3. A motor vehicle originally equipped so that the vehicle
8 draws propulsion energy from a battery with at least five (5)
9 kilowatt hours of capacity, and recharged from any external source
10 of electricity, manufactured primarily for use on public streets,
11 roads and highways (not including a vehicle operated exclusively on
12 a rail or rails) and which has at least four wheels. For purposes
13 of this paragraph, the term "qualified clean-burning motor vehicle
14 fuel property" does not include a low-speed vehicle within the
15 meaning defined in 49 CFR 571.3, or a vehicle that is manufactured
16 primarily for off-road use, such as primarily for use on a golf
17 course. A motor vehicle originally equipped so that the vehicle
18 draws propulsion energy from a battery shall only be eligible for a
19 tax credit as provided in subsection D of this section with a gross
20 vehicle weight rating of ten thousand (10,000) pounds or less;

21 4. Property, not including a building and its structural
22 components, which is:

23 a. directly related to the delivery of compressed natural
24 gas, liquefied natural gas or liquefied petroleum gas,

1 or hydrogen, for commercial purposes or for a fee or
2 charge, into the fuel tank of a motor vehicle
3 propelled by such fuel including compression equipment
4 and storage tanks for such fuel at the point where
5 such fuel is so delivered but only if such property is
6 not used to deliver such fuel into any other type of
7 storage tank or receptacle and such fuel is not used
8 for any purpose other than to propel a motor vehicle,
9 or

10 b. a ~~metered-for-fee~~, public access recharging system for
11 motor vehicles propelled in whole or in part by
12 electricity. The property covered by this paragraph
13 must be new, and must not have been previously
14 installed or used to refuel vehicles powered by
15 compressed natural gas, liquefied natural gas or
16 liquefied petroleum gas, hydrogen or electricity.

17 Any property covered by this paragraph which is related to the
18 delivery of hydrogen into the fuel tank of a motor vehicle shall
19 only be eligible for tax year 2010; or

20 ~~4.~~ 5. Property which is directly related to:

21 a. the compression and delivery of natural gas from a
22 private home or residence, for noncommercial purposes,
23 into the fuel tank of a motor vehicle propelled by
24 compressed natural gas. The property covered by this

1 ~~paragraph~~ subparagraph must be new and must not have
2 been previously installed or used to refuel vehicles
3 powered by natural gas, or

4 b. the delivery of electricity from a private home or
5 residence, for noncommercial purposes, into the
6 storage unit of a motor vehicle propelled by
7 electricity. The property covered by this
8 subparagraph must be new and must not have been
9 previously installed or used to recharge vehicles
10 powered by electricity.

11 C. As used in this section, "motor vehicle" means a motor
12 vehicle originally designed by the manufacturer to operate lawfully
13 and principally on streets and highways.

14 D. The credit provided for in subsection A of this section
15 shall be as follows:

16 1. ~~After the effective date of this act, for~~ For the qualified
17 clean-burning motor vehicle fuel property defined in paragraph 1 ~~or,~~
18 2 or 3 of subsection B of this section, ~~forty-five percent (45%) of~~
19 ~~the cost of the qualified clean-burning motor vehicle fuel property~~
20 the amount of the credit shall be as follows:

21 a. for vehicles up to or below six thousand (6,000)
22 pounds, the credit shall be a maximum of Five Thousand
23 Five Hundred Dollars (\$5,500.00),
24

- 1 b. for vehicles between six thousand one (6,001) pounds
2 to ten thousand (10,000) pounds, the credit shall be a
3 maximum amount of Nine Thousand Dollars (\$9,000.00),
4 c. for vehicles of ten thousand one (10,001) pounds, but
5 not in excess of twenty-six thousand five hundred
6 (26,500) pounds, the credit shall be a maximum amount
7 of Twenty-six Thousand Dollars (\$26,000.00), and
8 d. for vehicles in excess of twenty-six thousand five
9 hundred one (26,501) pounds, the credit shall be a
10 maximum amount of Fifty Thousand Dollars (\$50,000.00);

11 2. For qualified clean-burning motor vehicle fuel property
12 defined in paragraph ~~3~~ 4 of subsection B of this section, a per-
13 location credit of ~~seventy-five percent (75%)~~ forty-five percent
14 (45%) of the cost of the qualified clean-burning motor vehicle fuel
15 property defined as follows:

- 16 a. for equipment installations completed and commercially
17 available by midnight on December 31, 2018, seventy-
18 five percent (75%) of the cost of the qualified clean-
19 burning motor vehicle fuel property, and
20 b. for equipment installations completed and commercially
21 available between January 1, 2019, through December
22 31, 2023, forty-five percent (45%) of the cost of the
23 qualified clean-burning motor vehicle fuel property;
24 and

1 3. For qualified clean-burning motor vehicle fuel property
2 defined in paragraph 4 5 of subsection B of this section, a per-
3 location credit of the lesser of fifty percent (50%) of the cost of
4 the qualified clean-burning motor vehicle fuel property or Two
5 Thousand Five Hundred Dollars (\$2,500.00).

6 E. The tax credit authorized pursuant to the provisions of this
7 section shall not be used to reduce the tax liability of the
8 taxpayer to less than zero (0).

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

18 F. G. If the tax credit allowed pursuant to ~~subsection A of~~
19 this section exceeds the amount of income taxes due or if there are
20 no state income taxes due on the income of the taxpayer, the amount
21 of the credit not used as an offset against the income taxes of a
22 taxable year may be carried forward as a credit against subsequent
23 income tax liability for a period not to exceed ~~five (5)~~ six (6)
24 years.

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

5 ~~H.~~ I. The Oklahoma Tax Commission is herein empowered to
6 promulgate rules by which the purpose of this section shall be
7 administered, including the power to establish and enforce penalties
8 for violations thereof.

9 ~~I.~~ J. Notwithstanding the provisions of Section 2352 of this
10 title, for the fiscal year beginning on July 1, 2014, and each
11 fiscal year thereafter, the Tax Commission shall calculate an amount
12 that equals five percent (5%) of the cost of qualified clean-burning
13 motor vehicle fuel property as provided for in ~~paragraph~~ paragraphs
14 1 and 2 of subsection ~~D~~ B of this section for tax year 2012. For
15 each subsequent fiscal year thereafter, the Tax Commission shall
16 perform the same computation with respect to the second tax year
17 preceding the beginning of each subsequent fiscal year. The Tax
18 Commission shall then transfer an amount equal to the amount
19 calculated in this subsection from the revenue derived pursuant to
20 the provisions of subsections ~~A, B~~ C and E of Section 2355 of this
21 title to the Compressed Natural Gas Conversion Safety and Regulation
22 Fund created in Section ~~13~~ 130.25 of ~~this act~~ Title 74 of the
23 Oklahoma Statutes.

24

1 K. For tax years beginning January 1, 2019, the total amount of
2 credits authorized by this section used to offset tax shall be
3 adjusted annually to limit the annual amount of credits to Sixteen
4 Million Dollars (\$16,000,000.00). The Tax Commission shall annually
5 calculate and publish a percentage by which the credits authorized
6 by this section shall be reduced so the total amount of credits used
7 to offset tax does not exceed Sixteen Million Dollars
8 (\$16,000,000.00) per year. The formula to be used for the
9 percentage adjustment shall be Sixteen Million Dollars
10 (\$16,000,000.00) divided by the credits claimed in the second
11 preceding year.

12 L. Pursuant to subsection K of this section, in the event the
13 total tax credits authorized by this section exceed Sixteen Million
14 Dollars (\$16,000,000.00), in any tax year, the Tax Commission shall
15 permit any excess over Sixteen Million Dollars (\$16,000,000.00) but
16 shall factor such excess into the percentage adjustment formula for
17 subsequent years.

18 M. The Tax Commission shall notify the Office of the State
19 Secretary of Energy and Environment at any time when the amount of
20 claims for credits allowed pursuant to this section reaches eighty
21 percent (80%) of the total annual limit provided in subsection K of
22 this section. Upon such notification, the Secretary shall provide
23 notice to the Governor, President Pro Tempore of the Senate and
24 Speaker of the House of Representatives.

