

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2095

By: O'Donnell, McBride and
Fetgatter of the House

and

Bice of the Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 2357.22, as last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp. 2018, Section 2357.22), which relates to tax credits for investment in certain qualified clean-burning motor vehicles and related assets; modifying taxable years for which credit may be claimed; modifying references to hydrogen fuel cells; modifying manner in which certain credits are calculated and providing for computation of tax credits based on vehicle weight; and prohibiting use of tax credit to reduce tax liability below certain amount; and providing an effective date.

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

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. 2018, Section 2357.22), is amended to read as follows:

Section 2357.22. A. For tax years beginning before ~~January 1,~~
~~2020~~ December 31, 2027, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for

1 investments in qualified clean-burning motor vehicle fuel property
2 placed in 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, or
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. Property, not including a building and its structural
8 components, which is:

- 9 a. directly related to the delivery of compressed natural
10 gas, liquefied natural gas or liquefied petroleum gas,
11 ~~or hydrogen,~~ for commercial purposes or for a fee or
12 charge, into the fuel tank of a motor vehicle
13 propelled by such fuel including compression equipment
14 and storage tanks for such fuel at the point where
15 such fuel is so delivered but only if such property is
16 not used to deliver such fuel into any other type of
17 storage tank or receptacle and such fuel is not used
18 for any purpose other than to propel a motor vehicle,
19 or
20 b. a metered-for-fee, public access recharging system for
21 motor vehicles propelled in whole or in part by
22 electricity. The property covered by this paragraph
23 must be new, and must not have been previously
24 installed or used to refuel vehicles powered by

1 compressed natural gas, liquefied natural gas or
2 liquefied petroleum gas, ~~hydrogen~~ or electricity.

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

6 4. Property which is directly related to the compression and
7 delivery of natural gas from a private home or residence, for
8 noncommercial purposes, into the fuel tank of a motor vehicle
9 propelled by compressed natural gas. The property covered by this
10 paragraph must be new and must not have been previously installed or
11 used to refuel vehicles powered by natural gas.

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

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

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

- a. for vehicles up to or below six thousand (6,000) pounds, the credit shall be a maximum of Five Thousand Five Hundred Dollars (\$5,500.00),
- b. for vehicles between six thousand one (6,001) pounds to ten thousand (10,000) pounds, the credit shall be a maximum amount of Nine Thousand Dollars (\$9,000.00),
- c. for vehicles of ten thousand one (10,001) pounds, but not in excess of twenty-six thousand five hundred (26,500) pounds, the credit shall be a maximum amount of Twenty-six Thousand Dollars (\$26,000.00), and
- d. for vehicles in excess of twenty-six thousand five hundred one (26,501) pounds, the credit shall be a maximum amount of Fifty Thousand Dollars (\$50,000.00);

2. For qualified clean-burning motor vehicle fuel property defined in paragraph 3 of subsection B of this section, a per-location credit of ~~seventy-five percent (75%)~~ forty-five percent (45%) of the cost of the qualified clean-burning motor vehicle fuel property; and

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

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

10 F. If the tax credit allowed pursuant to subsection A of this
11 section exceeds the amount of income taxes due or if there are no
12 state income taxes due on the income of the taxpayer, the amount of
13 the credit not used as an offset against the income taxes of a
14 taxable year may be carried forward, in order, as a credit against
15 subsequent income tax liability for a period not to exceed five (5)
16 years. The tax credit authorized pursuant to the provisions of this
17 section shall not be used to reduce the tax liability of the
18 taxpayer to less than zero (0).

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

23 H. The Oklahoma Tax Commission is herein empowered to
24 promulgate rules by which the purpose of this section shall be

1 administered, including the power to establish and enforce penalties
2 for violations thereof.

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

17 J. For the taxable year beginning January 1, 2020, and each
18 taxable year thereafter, the total amount of credits authorized by
19 this section used to offset tax shall be adjusted annually to limit
20 the annual amount of credits to Twenty Million Dollars
21 (\$20,000,000.00). The Tax Commission shall annually calculate and
22 publish by the first day of the affected taxable year a percentage
23 by which the credits authorized by this section shall be reduced so
24 the total amount of credits used to offset tax does not exceed

1 Twenty Million Dollars (\$20,000,000.00) per year. The formula to be
2 used for the percentage adjustment shall be Twenty Million Dollars
3 (\$20,000,000.00) divided by the credits claimed in the second
4 preceding year, with respect to any changes to the future of the
5 credit.

6 K. Pursuant to subsection J of this section, in the event the
7 total tax credits authorized by this section exceed Twenty Million
8 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission
9 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)
10 but shall factor such excess into the percentage adjustment formula
11 for subsequent years with respect to any changes to the future of
12 the credit.

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

20 SECTION 2. This act shall become effective January 1, 2020.
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