

1 **SENATE FLOOR VERSION**

2 February 27, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 797

By: Bice of the Senate

and

O'Donnell of the House

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8
9 [income tax - credit for investments in clean-
10 burning motor fuel and electric motor vehicles - time
11 period - amount of credit - annual limitation -
methodology for specified calculation - effective
date]

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as
16 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
17 2018, Section 2357.22), is amended to read as follows:

18 Section 2357.22. A. For tax years beginning before ~~January 1,~~
19 ~~2020~~ January 1, 2027, there shall be allowed a one-time credit
20 against the income tax imposed by Section 2355 of this title for
21 investments in qualified clean-burning motor vehicle fuel property
22 placed in service after December 31, 1990.

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

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

- 8 a. be new, not previously used to modify or retrofit any
9 vehicle propelled by gasoline or diesel fuel and be
10 installed by an alternative fuels equipment technician
11 who is certified in accordance with the Alternative
12 Fuels Technician Certification Act,
13 b. meet all Federal Motor Vehicle Safety Standards set
14 forth in 49 CFR 571, or
15 c. for any commercial motor vehicle (CMV), follow the
16 Federal Motor Carrier Safety Regulations or Oklahoma
17 Intrastate Motor Carrier Regulations;

18 2. A motor vehicle originally equipped so that the vehicle may
19 be propelled by ~~a hydrogen fuel cell~~, compressed natural gas,
20 liquefied natural gas or liquefied petroleum gas but only to the
21 extent of the portion of the basis of such motor vehicle which is
22 attributable to the storage of such fuel, the delivery to the engine
23 of such motor vehicle of such fuel, and the exhaust of gases from
24 combustion of such fuel. ~~A motor vehicle originally equipped so~~

1 ~~that the vehicle may be propelled by a hydrogen fuel cell shall only~~
2 ~~be eligible for tax year 2010;~~

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

5 a. directly related to the delivery of compressed natural
6 gas, liquefied natural gas or liquefied petroleum gas,
7 ~~or hydrogen,~~ for commercial purposes or for a fee or
8 charge, into the fuel tank of a motor vehicle
9 propelled by such fuel including compression equipment
10 and storage tanks for such fuel at the point where
11 such fuel is so delivered but only if such property is
12 not used to deliver such fuel into any other type of
13 storage tank or receptacle and such fuel is not used
14 for any purpose other than to propel a motor vehicle,
15 or

16 b. a metered-for-fee, public access recharging system for
17 motor vehicles propelled in whole or in part by
18 electricity. The property covered by this paragraph
19 must be new, and must not have been previously
20 installed or used to refuel vehicles powered by
21 compressed natural gas, liquefied natural gas or
22 liquefied petroleum gas, hydrogen or electricity.
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1 ~~Any property covered by this paragraph which is related to the~~
2 ~~delivery of hydrogen into the fuel tank of a motor vehicle shall~~
3 ~~only be eligible for tax year 2010; or~~

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

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

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

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

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),

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- 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 pounds (10,001), 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),
8 d. for vehicles of twenty-six thousand five hundred one
9 (26,501) pounds or greater, 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 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; and

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

21 E. In cases where no credit has been claimed pursuant to
22 paragraph 1 of subsection D of this section by any prior owner and
23 in which a motor vehicle is purchased by a taxpayer with qualified
24 clean-burning motor vehicle fuel property installed by the

1 manufacturer of such motor vehicle and the taxpayer is unable or
2 elects not to determine the exact basis which is attributable to
3 such property, the taxpayer may claim a credit in an amount not
4 exceeding the lesser of ten percent (10%) of the cost of the motor
5 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

6 F. If the tax credit allowed pursuant to subsection A of this
7 section exceeds the amount of income taxes due or if there are no
8 state income taxes due on the income of the taxpayer, the amount of
9 the credit not used as an offset against the income taxes of a
10 taxable year may be carried forward, in order, as a credit against
11 subsequent income tax liability for a period not to exceed five (5)
12 years.

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

17 H. The Oklahoma Tax Commission is herein empowered to
18 promulgate rules by which the purpose of this section shall be
19 administered, including the power to establish and enforce penalties
20 for violations thereof.

21 I. Notwithstanding the provisions of Section 2352 of this
22 title, for the fiscal year beginning on July 1, 2014, and each
23 fiscal year thereafter, the Tax Commission shall calculate an amount
24 that equals five percent (5%) of the cost of qualified clean-burning

1 motor vehicle fuel property as provided for in paragraph 1 of
2 subsection D of this section for tax year 2012. For each subsequent
3 fiscal year thereafter, the Tax Commission shall perform the same
4 computation with respect to the second tax year preceding the
5 beginning of each subsequent fiscal year. The Tax Commission shall
6 then transfer an amount equal to the amount calculated in this
7 subsection from the revenue derived pursuant to the provisions of
8 subsections A, B and E of Section 2355 of this title to the
9 Compressed Natural Gas Conversion Safety and Regulation Fund created
10 in Section 13 of this act.

11 J. For the tax year beginning January 1, 2020, and each tax
12 year thereafter, the total amount of credits authorized by this
13 section used to offset tax shall be adjusted annually to limit the
14 annual amount of credits to Twenty Million Dollars (\$20,000,000.00).
15 The Tax Commission shall annually calculate and publish by the first
16 day of the affected year a percentage by which the credits
17 authorized by this section shall be reduced so the total amount of
18 credits used to offset tax does not exceed Twenty Million Dollars
19 (\$20,000,000.00) per year. The formula to be used for the
20 percentage adjustment shall be Twenty Million Dollars
21 (\$20,000,000.00) divided by the credits claimed in the second
22 preceding year.

23 K. Pursuant to subsection J of this section, in the event the
24 total tax credits authorized by this section exceed Twenty Million

1 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission
2 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)
3 but shall factor such excess into the percentage adjustment formula
4 for subsequent years.

5 L. The Tax Commission shall notify the Office of the State
6 Secretary of Energy and Environment at any time when the amount of
7 claims for credits allowed pursuant to this subsection reaches
8 eighty percent (80%) of the total annual limit provided in paragraph
9 J of this subsection. Upon such notification, the Secretary shall
10 provide notice to the Governor, President Pro Tempore of the Senate
11 and Speaker of the House of Representatives.

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

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 27, 2019 - DO PASS AS AMENDED
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