

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1857

By: David

AS INTRODUCED

An Act relating to income tax credit; amending 68 O.S. 2021, Section 2357.22, which relates to tax credits for investment in certain qualified clean-burning motor vehicles and related assets; modifying tax years for which credit may be claimed; providing tax credit for hydrogen fuel cells and related assets; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.22, is amended to read as follows:

Section 2357.22. A. For tax years ~~beginning before December 31, 2027~~ 2028 and before, 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~~ on or after January 1, 1991.

B. As used in this section, "qualified clean-burning motor 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 compressed natural gas, liquefied natural gas, or
4 liquefied petroleum gas. The equipment covered by this paragraph
5 must:

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

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

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

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

19 Any property covered by this paragraph which is related to the
20 delivery of hydrogen into the fuel tank of a motor vehicle shall
21 only be eligible for ~~tax year 2010~~ tax years 2010 and 2023 through
22 2028; or

23 4. Property which is directly related to the compression and
24 delivery of natural gas from a private home or residence, for

1 noncommercial purposes, into the fuel tank of a motor vehicle
2 propelled by compressed natural gas. The property covered by this
3 paragraph must be new and must not have been previously installed or
4 used to refuel vehicles powered by natural gas; or

5 5. For tax years 2010 and 2023 through 2028, a motor vehicle
6 originally equipped so that the vehicle may be propelled by a
7 hydrogen fuel cell electric fueling system.

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

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

13 1. For the qualified clean-burning motor vehicle fuel property
14 defined in paragraph 1 or 2 of subsection B of this section, the
15 amount of the credit shall be as follows based upon gross vehicle
16 weight of the qualified vehicle:

- 17 a. for vehicles up to or below six thousand (6,000)
18 pounds, the credit shall be a maximum of Five Thousand
19 Five Hundred Dollars (\$5,500.00),
- 20 b. for vehicles between six thousand one (6,001) pounds
21 to ten thousand (10,000) pounds, the credit shall be a
22 maximum amount of Nine Thousand Dollars (\$9,000.00),
- 23 c. for vehicles of ten thousand one (10,001) pounds, but
24 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)~~ One Hundred Thousand Dollars (\$100,000.00);

2. For qualified clean-burning motor vehicle fuel property defined in paragraph 3 of subsection B of this section, a per-location credit of 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).

E. In cases where no credit has been claimed pursuant to paragraph 1 of subsection D of this section by any prior owner 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).

1 F. If the tax credit allowed pursuant to subsection A of this
2 section exceeds the amount of income taxes due or if there are no
3 state income taxes due on the income of the taxpayer, the amount of
4 the credit not used as an offset against the income taxes of a
5 taxable year may be carried forward, in order, as a credit against
6 subsequent income tax liability for a period not to exceed five (5)
7 years. The tax credit authorized pursuant to the provisions of this
8 section shall not be used to reduce the tax liability of the
9 taxpayer to less than zero (0).

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

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

18 I. Notwithstanding the provisions of Section 2352 of this
19 title, for the fiscal year beginning on July 1, 2014, and each
20 fiscal year thereafter, the Tax Commission shall calculate an amount
21 that equals five percent (5%) of the cost of qualified clean-burning
22 motor vehicle fuel property as provided for in paragraph 1 of
23 subsection D of this section for tax year 2012. For each subsequent
24 fiscal year thereafter, the Tax Commission shall perform the same

1 computation with respect to the second tax year preceding the
2 beginning of each subsequent fiscal year. The Tax Commission shall
3 then transfer an amount equal to the amount calculated in this
4 subsection from the revenue derived pursuant to the provisions of
5 subsections A, B and E of Section 2355 of this title to the
6 Compressed Natural Gas Conversion Safety and Regulation Fund created
7 in Section 130.25 of Title 74 of the Oklahoma Statutes.

8 J. For the taxable year beginning January 1, 2020, and each
9 taxable year thereafter, the total amount of credits authorized by
10 this section used to offset tax shall be adjusted annually to limit
11 the annual amount of credits to ~~Twenty Million Dollars~~
12 ~~(\$20,000,000.00)~~ Thirty Million Dollars (\$30,000,000.00). The Tax
13 Commission shall annually calculate and publish by the first day of
14 the affected taxable year a percentage by which the credits
15 authorized by this section shall be reduced so the total amount of
16 credits used to offset tax does not exceed ~~Twenty Million Dollars~~
17 ~~(\$20,000,000.00)~~ Thirty Million Dollars (\$30,000,000.00) per year.
18 The formula to be used for the percentage adjustment shall be ~~Twenty~~
19 ~~Million Dollars (\$20,000,000.00)~~ Thirty Million Dollars
20 (\$30,000,000.00) divided by the credits claimed in the second
21 preceding year, with respect to any changes to the future of the
22 credit.

23 K. Pursuant to subsection J of this section, in the event the
24 total tax credits authorized by this section exceed ~~Twenty Million~~
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1 ~~Dollars (\$20,000,000.00)~~ Thirty Million Dollars (\$30,000,000.00) in
2 any calendar year, the Tax Commission shall permit any excess over
3 ~~Twenty Million Dollars (\$20,000,000.00)~~ Thirty Million Dollars
4 (\$30,000,000.00) but shall factor such excess into the percentage
5 adjustment formula for subsequent years with respect to any changes
6 to the future of the credit.

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

14 SECTION 2. This act shall become effective January 1, 2023.
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