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COMMITTEE AMENDMENT ADOPTED

April 7, 2016

**S. 1075**

Introduced by Senators Campbell, Hayes and Grooms

S. Printed 3/7/16--S. [SEC 4/11/16 3:58 PM]

Read the first time February 10, 2016.

**A** **BILL**

TO AMEND SECTION 12‑28‑110 OF THE 1976 CODE, RELATING TO DEFINITIONS PERTAINING TO MOTOR FUELS, TO AMEND CERTAIN DEFINITIONS; TO AMEND SECTION 56‑5‑4160 OF THE 1976 CODE, RELATING TO VEHICLE WEIGHTS AND LOADS, TO PROVIDE ADDITIONAL WEIGHT ALLOWANCES FOR MOTOR VEHICLES FUELED BY ALTERNATIVE FUEL; TO AMEND SECTION 12‑37‑2820, RELATING TO THE ASSESSMENT OF MOTOR VEHICLES, TO CLARIFY A DEFINITION AS IT RELATES TO MOTOR VEHICLES FUELED BY ALTERNATIVE FUEL; TO ADD SECTION 12‑6‑3695, RELATING TO INCOME TAX CREDITS, TO ALLOW AN INCOME TAX CREDIT TO A TAXPAYER WHO PURCHASES OR CONSTRUCTS AND INSTALLS AND PLACES IN SERVICE IN THIS STATE ELIGIBLE PROPERTY THAT IS USED FOR DISTRIBUTION, DISPENSING, OR STORING ALTERNATIVE FUEL AT A NEW OR EXISTING FUEL DISTRIBUTION OR DISPENSING FACILITY, AND TO SPECIFY THE AMOUNT OF THE CREDIT AND THE REQUIREMENTS OF THE CREDIT; AND TO ADD SECTION 12‑6‑3697, RELATING TO INCOME TAX CREDITS, TO ALLOW FOR AN INCOME TAX CREDIT FOR THE INCREMENTAL COSTS OR CONVERSION COSTS OF THE AMOUNT EXPENDED TO PURCHASE OR CONVERT AN ALTERNATIVE FUEL HEAVY‑DUTY VEHICLE, ALTERNATIVE FUEL VEHICLE, AND A BI‑FUEL ALTERNATIVE FUEL VEHICLE, AND TO SPECIFY THE AMOUNT OF THE CREDITS AND THE REQUIREMENTS OF THE CREDIT.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 12‑28‑110(1) of the 1976 Code is amended to read:

“(1) ‘Alternative fuel’ means a liquefied petroleum gas, liquefied natural gas, compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas product used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. It includes all forms of fuel commonly or commercially known or sold as butane, propane, liquefied natural gas, or compressed natural gas.”

B. Section 12‑28‑110(39) of the 1976 Code is amended to read:

“(39) ‘Motor fuel’ means gasoline, diesel fuel, substitute fuel, renewable fuel, alternative fuel, and blended fuel.”

C. Section 12‑28‑110(55) of the 1976 Code is amended to read:

“(55) ‘Motor fuel subject to the user fee’ means gasoline, diesel fuel, kerosene, blended fuel, substitute fuel, alternative fuel and blends of them and any other substance blended with them.”

D. Section 12‑28‑110 of the 1976 Code is amended by adding two appropriately numbered items to read:

“( ) ‘Diesel gallon equivalent’ or ‘DGE’ means the amount of liquefied natural gas containing the same energy content as one gallon of diesel. For purposes of calculating the motor fuel user fee on liquefied natural gas that is used or consumed in this State in producing or generating power for propelling a motor vehicle, each 6.06 pounds of liquefied natural gas equals one gallon of motor fuel.

( ) ‘Gasoline gallon equivalent’ or ‘GGE’ means the amount of compressed natural gas or liquefied petroleum gas containing the same energy content as one gallon of gasoline. For purposes of calculating the motor fuel user fee on compressed natural gas or liquefied petroleum gas that is used or consumed in South Carolina in producing or generating power for propelling a motor vehicle, each 126.67 cubic feet of compressed natural gas, or 5.66 pounds if the compressed natural gas is dispensed via a mass flow meter, equals one gallon of motor fuel and each gallon of liquefied petroleum gas equals .73 of a gallon of motor fuel.”

E. Article 1, Chapter 28, Title 12 of the 1976 Code is amended by adding:

“Section 12‑28‑120. For purposes of this chapter, any reference to the term gallon with respect to liquefied natural gas means diesel gallon equivalent (DGE) and any reference to the term gallon with respect to compressed natural gas or liquefied petroleum gas means gasoline gallon equivalent (GGE). For any gaseous product for which a conversion factor is not provided for in this chapter, based on the best information available, the department shall establish a temporary conversion factor to determine the gallon equivalent. The department shall subsequently submit to the General Assembly a recommended legislative change for this conversion factor.”

F. Section 12‑36‑2120(15) of the 1976 Code is amended by adding two appropriately lettered subitems to read:

“( ) natural gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12‑28‑1139 who will compress it to produce compressed natural gas, or cool it to produce liquefied natural gas, for use as a motor fuel and remit the motor fuel user fees as required by law; and

( ) liquefied petroleum gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12‑28‑1139 who will use the liquefied petroleum gas as a motor fuel and remit the motor fuel user fees as required by law;”

G. Section 12‑28‑1125(A) of the 1976 Code is amended to read:

“(A) Each person who wishes to cause motor fuel subject to the user fee to be delivered into this State on his behalf, for his own account, or for resale to a purchaser in this State, from another state ~~in a fuel transport truck or in a pipeline or barge shipment~~ by any means into storage facilities other than a qualified terminal, shall apply and obtain an occasional importer’s license or a bonded importer’s license, at the discretion of the applicant.”

SECTION 2. Section 56‑5‑4160 of the 1976 Code, as last amended by Act 234 of 2008, is further amended by adding an appropriately lettered subsection to read:

“( ) Any motor vehicle that is fueled primarily by natural gas may exceed the gross, single axle, tandem axle, or bridge formula weight limits, including tolerances, by no more than 2,000 pounds each individually weighed, up to a maximum gross vehicle weight of 82,000 pounds on the interstate, by an amount that is equal to the difference between: the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system. This subsection only applies if the operator of the vehicle can demonstrate that the vehicle is a natural gas vehicle, a biofuel vehicle using natural gas, or a vehicle that has been converted to a natural gas vehicle. The operator shall provide documentation which certifies the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system.”

SECTION 3. A. Section 12‑37‑2820(B) of the 1976 Code is amended to read:

“(B) ‘Gross capitalized cost’, as used in this section, means the original cost upon acquisition for income tax purposes, not to include taxes, interest, or cab customizing. However, for a motor vehicle which is fueled wholly or partially by alternative fuel as defined in Section 12‑28‑110(1), and that was acquired after 2015 but before 2026, the gross capitalized cost is reduced by the differential costs of a comparable diesel or gasoline powered vehicle, not to exceed thirty percent of the total acquisition cost of the motor vehicle. This reduction shall apply for the first ten property tax years for which tax is due following the acquisition of the vehicle.”

B. This SECTION first applies to property tax years beginning after 2015.

SECTION 4. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3695. (A)(1) A taxpayer who purchases or constructs and installs and places in service in this State eligible property that is used for distribution, dispensing, or storing alternative fuel specified in this subsection, at a new or existing fuel distribution or dispensing facility, is allowed an income tax credit equal to twenty‑five percent of the cost to the taxpayer of purchasing, constructing, and installing the eligible property.

(2) The entire credit may not be taken in the taxable year in which the property is placed in service, but must be taken in three equal annual installments beginning with the taxable year in which the property is placed in service. If, in one of the years in which the installment of a credit accrues, property directly and exclusively used for distributing, dispensing, or storing alternative fuel is disposed of or taken out of service and is not replaced, the credit expires and the taxpayer may not claim any remaining installment of the credit.

(3) The unused portion of an unexpired credit may be carried forward for not more than ten succeeding taxable years.

(4) The taxpayer may transfer any applicable credit associated with this section. To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes. Notwithstanding subsection (D), as used in this item, the term ‘taxpayer’ only applies to the State or any agency or instrumentality, authority, or political subdivision, including municipalities.

(5) A taxpayer who claims any other credit allowed pursuant to this article with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(B) The Department of Revenue may require documentation that it considers necessary to administer the credit.

(C) To claim the credits allowed in this section, the taxpayer must place the property or facility in service before January 1, 2026.

(D) For purposes of this section:

(1) ‘Eligible property’ includes pumps, compressors, storage tanks, and related equipment that is directly and exclusively used for distribution, dispensing, or storing alternative fuel. The equipment used to store, distribute, or dispense alternative fuel must be labeled for this purpose and clearly identified as associated with alternative fuel.

(2) ‘Alternative fuel’ means compressed natural gas, liquefied natural gas, or liquefied petroleum gas, dispensed for use in motor vehicles and compressed natural gas, liquefied natural gas, or liquefied petroleum gas, dispensed by a distributor or facility.

(3) ‘Taxpayer’ means any sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity. Also, the word ‘taxpayer’ includes the State or any agency or instrumentality, authority, or political subdivision, including municipalities.”

B. This SECTION first applies to tax years beginning after 2015.

SECTION 5. A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3697. (A) For purposes of this section:

(1) ‘Alternative fuel’ means liquidfied petroleum gas, liquid natural gas, or compressed natural gas fuel.

(2) ‘Alternative fuel heavy‑duty vehicle’ means a new or converted commercial vehicle, with a gross vehicle weight ratio equal to or more than 26,001 pounds, which is primarily fueled by an alternative fuel. As used in this paragraph, ‘primarily fueled by an alternative fuel’ means a vehicle that is produced by an original equipment manufacturer or converted by a third‑party equipment manufacturer and operates on ninety percent or more alternative fuel and on ten percent or less gasoline or diesel fuel.

(3) ‘Alternative fuel vehicle’ means a new or converted commercial vehicle, with a gross vehicle weight ratio less than 26,001 pounds, that is fueled solely by an alternative fuel and that is produced by an original equipment manufacturer or converted by a third‑party equipment manufacturer.

(4) ‘Bi‑fuel alternative fuel vehicle’ means a new or converted commercial vehicle with a gross vehicle weight ratio less than 26,001 pounds, that has two separate fuel systems, one of which is fueled by an alternative fuel and the other by conventional gasoline and that is produced by an original equipment manufacturer or a third‑party equipment manufacturer.

(5) ‘Conversion cost’ means the cost that results from modifying a motor vehicle which is propelled by gasoline or diesel to be propelled by an alternative fuel. In the case of a bi‑fuel alternative fuel vehicle, cost conversion means the cost that results from modifying a motor vehicle to be partially propelled by an alternative fuel.

(6) ‘Commercial vehicle’ means any vehicle used for commercial or business purposes owned by a taxpayer.

(7) ‘Incremental cost’ means the cost that results from subtracting the manufacturer’s list price of the motor vehicle operating on conventional gasoline or diesel fuel from the manufacturer’s list price of the same model motor vehicle designed to operate on an alternative fuel.

(8) ‘Taxpayer’ means any sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity. Also, the word ‘taxpayer’ includes the State or any agency or instrumentality, authority, or political subdivision, including municipalities.

(B)(1) A taxpayer is allowed an income tax credit of fifty percent of the incremental costs or conversion costs of the amount expended to purchase or convert an alternative fuel heavy‑duty vehicle. The credit may not exceed twelve thousand dollars for each vehicle.

(2) A taxpayer is allowed an income tax credit of fifty percent of the incremental costs or conversion costs of the amount expended to purchase or convert an alternative fuel vehicle. The credit may not exceed eight thousand dollars for each vehicle.

(3) A taxpayer is allowed an income tax credit of fifty percent of the incremental costs or conversion costs of the amount expended to purchase or convert a bi‑fuel alternative fuel vehicle. The credit may not exceed six thousand dollars for each vehicle.

(C) The credit allowed by this section is limited in use to fifty percent of either:

(1) the taxpayer’s income tax liability for the taxable year if taxpayer claims the credit allowed by this section as a credit against income tax imposed pursuant to Chapter 6; or

(2) the taxpayer’s corporate license fees for the taxable year if the taxpayer claims the credit allowed by this section as a credit against license fees imposed pursuant to Chapter 20.

(D) The tax credit is nonrefundable but unused credits may be carried forward for seven years. The seven‑year carry forward period must not be extended due to periods of noncompliance.

(E) The taxpayer may transfer any applicable credit associated with this section. To the extent that the taxpayer transfers the credit, the taxpayer must notify the department of the transfer in the manner the department prescribes. Notwithstanding subsection (A), as used in this subsection, the term ‘taxpayer’ only applies to the State or any agency or instrumentality, authority, or political subdivision, including municipalities.

(F) The department shall produce an appropriate form for the taxpayer to submit certifying the following:

(1) certification from the manufacturer that the vehicle is an alternative fuel heavy‑duty vehicle, alternative fuel vehicle, a bi‑fuel alternative fuel vehicle, or a third‑party equipment manufacturer who possesses a current and legal Certificate of Conformity from the Environmental Protection Agency’s Office of Transportation and Air Quality specific to the qualified alternative fuel vehicle;

(2) a sworn affidavit from the taxpayer certifying that the vehicle will accumulate at least fifty‑one percent of its mileage in South Carolina in each year for a five‑year period, and that the vehicle is registered in this State and will remain registered in South Carolina for no less than five years; and

(3) any other information requested by the department.

(G) The department may promulgate rules and regulations necessary to implement and administer the provisions of this section, including provisions for repayment of any credit in the event any of the certifications are or become untrue during the five‑year period following the date of application.

(H) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit to any partner or member who was a member or partner at any time during the year in which the credit is allocated.

(I) The credit authorized by this section is allowed for purchases or conversions made after December 31, 2015, but before January 1, 2021.”

B. This SECTION first applies to tax years beginning after 2015.

SECTION 6. This act takes effect upon approval by the Governor.

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