

SENATE No. 1276

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Providing Incentives for the Purchase and Use of Clean Alternative Transportation Fuels..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2000
2 official Edition, is hereby amended by adding at the end, the following subsection:-

3 (1)(1) As used in this subsection, the following words and phrases shall have the
4 following meanings:

5 "Alternative fuel", any fuel designated as such on an annual list issued by the department
6 of environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures
7 containing eighty-five percent or more by volume of methanol, denatured ethanol, and other
8 alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-
9 derived liquid fuels; fuels (other than alcohol) derived from biological materials, electricity
10 (including electricity from solar energy); and any other fuel that the department of environmental
11 protection determines is substantially not petroleum.

12 SECTION 2. Said chapter 152 is hereby further amended by striking out

13 "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety,
14 which the department of environmental protection determines to: (1) operate exclusively on an
15 alternative fuel; and (2) meet applicable state and federal safety and emission standards. In
16 addition, for an alternative fuel vehicle less than six thousand pounds gross vehicle weight rating,
17 the alternative fuel vehicle shall meet ultra low emission, inherently low emission, or zero
18 emission vehicle standards, as defined in regulations promulgated by the department of
19 environmental protection, for total vehicle emissions. For an alternative fuel vehicle equal to or
20 greater than six thousand gross vehicle weight rating, the alternative fuel vehicle shall meet
21 federal emission standards for a new comparable vehicle. The department of environmental
22 protection shall publish an annual list of alternative fuel vehicles.

23 "Comparable conventionally-fueled motor vehicle" or "comparable vehicle", a motor
24 vehicle which is (1) commercially available at the time the comparability of the vehicle is being
25 assessed; (2) powered by an internal combustion engine that uses petroleum as its fuel source;
26 and (3) provides passenger capacity or payload capacity the same or similar to the alternative
27 fuel vehicle to which it is being compared. The department of environmental protection shall
28 publish an annual list, to be updated as needed, of comparable conventionally-fueled motor
29 vehicles.

30 "Facility", any structure, equipment, apparatus, wires or piping used with dispensing or
31 charging equipment necessary to dispense an alternative fuel as determined by the division of
32 energy resources in consultation with the department of environmental protection.

33 "Incremental cost", the difference between the price paid for the alternative fuel vehicle
34 and the average retail cost of a comparable conventionally-fueled motor vehicle. The department

of environmental protection shall publish an annual list, to be updated as needed, of the average retail prices of comparable conventionally-fueled motor vehicles to be used as the basis for determining incremental cost.

(2)(a) A credit shall be allowed against the tax imposed by this chapter in an amount equal to fifty percent of the incremental cost of purchasing a new alternative fuel vehicle and fifty percent of the cost of converting a petroleum fueled motor vehicle to an alternative fuel vehicle. For an originally equipped alternative fuel vehicle, the credit allowed shall be claimed in the first taxable year in which the vehicle is registered. For a motor vehicle which has been converted to an alternative fuel vehicle, the credit allowed shall be claimed in the first taxable year in which such conversion occurs. Conversion costs eligible for such credit shall include the cost of purchasing conversion equipment necessary to convert a motor vehicle to an alternative fuel vehicle and the labor costs associated with installing such conversion equipment.

(b) A credit also shall be allowed against the tax imposed by this chapter on an owner of a facility in an amount equal to forty percent of the cost of constructing any facility in Massachusetts, available to the public where feasible, for fueling alternative fuel vehicles. Facility costs eligible for a credit under this paragraph include the cost of purchasing fueling equipment, charging equipment and other materials necessary for the facility to fuel alternative fuel vehicles and the labor costs associated with constructing the facility and installing such equipment. This credit shall be claimed in the first taxable year in which the facility becomes operational.

(3) No credits shall be allowed under this subsection for the purchase of alternative fuel vehicles purchased in accordance with federal requirements under the Energy Policy Act of 1992.

(4) The allowable credits under this subsection shall not exceed \$5,000 per vehicle or \$50,000 for a single alternative fuel facility or \$100,000 for a facility dispensing multiple alternative fuels.

(5) The allowable credits under this subsection shall not exceed the total tax liability under this chapter before any other credits are taken into account.

(6) In any year in which the credit described in this subsection exceeds the total tax liability under this chapter before any other credits are taken into account, the unused credit, as reduced from year to year, may be carried forward and used against the tax liability for one or more of the succeeding five tax periods.

(7) The credit allowed herein shall apply to taxes due for taxable periods beginning on or after January first, nineteen hundred and ninety-seven and ending on or before December thirty-first, two thousand and ten. Such credits, except for unused amounts of credits carried forward pursuant to subparagraph (5), shall not apply to taxable periods beginning on or after January first, two thousand and five.

(8) For the period of time this credit is allowed, the commissioner shall provide to the department of environmental protection with the following information as it becomes available:

(a) number of taxpayers claiming the credit;

(b) total dollars of credit claimed;

(c) the total number of alternative fuel vehicles for which credit is claimed and the type of fuel that each vehicle is designed

(9) The commissioner shall promulgate rules and regulations necessary to implement the provisions of this section.

SECTION 2. Chapter 63 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding after section 38P, the following new section:-

Section 38Q. A corporation subject to tax pursuant to this chapter shall be allowed a credit against such tax as allowed under subsection (h) of section six of chapter sixty-two provided that:

(1) if a corporation is subject to a minimum excise under any provision of this chapter, the amount of the credit allowed by this section shall not reduce the excise to an amount less than the minimum excise:

(2) the credit allowed under this section shall be subject to the provisions of section 32 C; and

(3) any corporation entitled to a credit pursuant to this section for any taxable year shall apply such credit only to its excise for any of the eligible taxable years. Such credit may not be applied against the excise liability of any other corporation pursuant to an election under the provisions of section thirty-two B.

(4) Any corporation entitled to the credit allowed by this section may carry over and apply to its excise for any one or more of the next succeeding five taxable years, the portion, as reduced from year to year, of its credit which exceeds its excise for the taxable year.

(5) For the period of time this credit is allowed, the commissioner shall provide to the department of environmental protection with the following information as it becomes available:

(a) number of taxpayers claiming the credit;

(b) total dollars of credit claimed;

(c) the total number of alternative fuel vehicles for which credit is claimed and the type of fuel that each vehicle is designed to use. The commissioner shall provide similar information to the division of energy resources.

(6) The commissioner shall promulgate rules and regulations necessary to implement the provisions of this section.

SECTION 3. Section 1 of chapter 64E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following new subsections:-

(l) "Alternative fuel", any fuel designated as such on an annual list issued by the department of environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel that the department of environmental protection determines is substantially not petroleum.

(m) "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the department of environmental protection determines to: (1) operate exclusively on an alternative fuel; and (2) meet applicable state and federal safety and emission standards. In

addition, for an alternative fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in regulations promulgated by the department of environmental protection for total vehicle emissions. For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The department of environmental protection shall publish an annual list of alternative fuel vehicles.

SECTION 4. Section 4 of chapter 64E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding at the end thereof the following sentences:-

No person shall pay an excise pursuant to this chapter for alternative fuel when the alternative fuel is dispensed into an alternative fuel vehicle. The exemptions provided in this paragraph shall not apply to any such sales made after December thirty-first, two thousand and ten.

SECTION 5. Section 1 of chapter 64F of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting the following new subsections:-

(g) "Alternative fuel", any fuel designated as such on an annual list issued by the department of environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel that the department of environmental protection determines is substantially not petroleum.

(h) "Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the department of environmental protection determines to: (1) operate exclusively on an alternative fuel; and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in regulations promulgated by the department of environmental protection, for total vehicle emissions. For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The department of environmental protection shall publish an annual list of alternative fuel vehicles.

SECTION 6. Section 3 of chapter 64F of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the first sentence the following new sentences:-

No person shall pay an excise pursuant to this chapter for the privilege of using the highways of the commonwealth while operating an alternative fuel vehicle. The exemptions provided in this paragraph shall not apply to any such sales made after December thirty-first, two thousand and ten.

SECTION 7. Section 6 of chapter 64H of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following new subsections:-

(rr) As used in this subsection and in subsections (ss) and (tt), the following words and phrases shall have the following meanings:-

"Alternative fuel", any fuel designated as such on an annual list issued by the department of environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel that the department of environmental protection determines is substantially not petroleum.

"Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the department of environmental protection determines to: (1) operate exclusively on an alternative fuel; and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in regulations promulgated by the department of environmental protection, for total vehicle emissions. For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The department of environmental protection shall publish an annual list of alternative fuel vehicles.

"Comparable conventionally-fueled motor vehicle" or "comparable vehicle", a motor vehicle which is (1) commercially available at the time the comparability of the vehicle is being assessed; (2) powered by an internal combustion engine that uses petroleum as its fuel source; and (3) provides passenger capacity or payload capacity the same or similar to the alternative fuel vehicle to which it is being compared. The department of environmental protection shall

183 publish an annual list, to be updated as needed, of comparable conventionally-fueled motor
184 vehicles.

185 "Incremental cost", the difference between the price paid for the alternative fuel vehicle
186 and the average retail cost of a comparable conventionally-fueled motor vehicle. The department
187 of environmental protection shall publish an annual list, to be updated as needed, of the average
188 retail prices of comparable conventionally-fueled motor vehicles to be used as the basis for
189 determining incremental cost.

190 Sales of materials, tools and machinery and replacement parts thereof, used directly and
191 exclusively for converting a conventionally-fueled motor vehicle to an alternative fuel vehicle;
192 and sales of any new alternative fuel vehicle, but only that portion of a sale which is the
193 incremental cost of the alternative fuel vehicle. The exemption provided in this subsection shall
194 not apply to any such sales made after December thirty-first, two thousand and ten.

195 (ss) Sales of materials, tools and machinery and replacement parts thereof used directly
196 and exclusively to dispense alternative fuel into alternative fuel vehicles. The exemption
197 provided in this subsection shall not apply to any such sales made after December thirty-first,
198 two thousand and ten.

199 (tt) Sales of alternative fuel when dispensed into an alternative fuel vehicle. The
200 exemption provided in this subsection shall not apply to any such sales made after December
201 thirty-first, two thousand and ten.

202 SECTION 8. Chapter 164 of the General Laws, as appearing in the 2000 Official Edition,
203 is hereby amended by striking section 94 1/2 and inserting in place thereof the following
204 section:-

Section 94 1/2. As used in this subsection, the following words and phrases shall have the following meanings:

"Alternative fuel", any fuel designated as such on an annual list issued by the department of environmental protection, including methanol, denatured ethanol, and other alcohols; mixtures containing eighty-five percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel that the department of environmental protection determines is substantially not petroleum.

"Alternative fuel vehicle", a motor vehicle, as defined in section one of chapter ninety, which the department of environmental protection determines to: (1) operate exclusively on an alternative fuel; and (2) meet applicable state and federal safety and emission standards. In addition, for an alternative fuel vehicle less than six thousand pounds gross vehicle weight rating, the alternative fuel vehicle shall meet ultra low emission, inherently low emission, or zero emission vehicle standards, as defined in regulations promulgated by the department of environmental protection, for total vehicle emissions. For an alternative fuel vehicle equal to or greater than six thousand gross vehicle weight rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle. The department of environmental protection shall publish an annual list of alternative fuel vehicles. Notwithstanding the provisions of section 94, or any other special or general law to the contrary, the rates and terms for the sale of alternative fuels for motor vehicle use shall not be subject to regulation by the department of public utilities; provided, however, that any gas or electric company which is otherwise regulated pursuant to this chapter and sells alternative fuels for motor vehicle use, shall keep separate

228 records, books, and accounts of such unregulated sales sufficient to allow the department of
229 public utilities to allocate costs and revenues; and provided further, that such gas or electric
230 company's sale of alternative fuel for use in motor vehicles and investment in related
231 infrastructure shall not affect the quality of service or increase the cost of alternative fuel to said
232 company's customers who purchase alternative fuel for uses other than motor vehicle use.