

# SENATE . . . . . No. 1471

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Thomas P. Kennedy*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing incentives for the purchase and use of alternative fuel vehicles.

PETITION OF:

NAME:

*Thomas P. Kennedy*

DISTRICT/ADDRESS:

# SENATE . . . . . No. 1471

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By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 1471) of Thomas P. Kennedy for legislation to provide incentives for the purchase and use of alternative fuel vehicles. Revenue.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1289 OF 2009-2010.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
\_\_\_\_\_

An Act providing incentives for the purchase and use of alternative fuel vehicles.

*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 22A of chapter 40 of the General Laws is hereby amended by  
2   adding the following paragraph:—

3           Any city or town acting under this section with respect to ways under its control, or under  
4   the authority granted under chapter forty A with respect to zoning, may further regulate the  
5   parking of vehicles by restricting certain areas or requiring that certain areas be restricted for the  
6   parking of any vehicle bearing a distinctive plate, decal, or emblem identifying such vehicle as a  
7   reduced emissions vehicle, as defined by section one of chapter ninety. Any such ordinance,  
8   bylaw, order, rule, or regulation promulgated pursuant to the provisions of this paragraph shall  
9   contain a penalty of not less than fifteen dollars or not more than fifty dollars and may provide  
10   for the removal of a vehicle in accordance with the provisions of section twenty-two D.

SECTION 2. Section 6 of chapter 62 of the General Laws is hereby amended by adding the following subsection:—

(h)(1) 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 an 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.

A credit also shall be allowed against the tax imposed by this chapter in an amount equal to fifty percent of the cost of constructing any facility in Massachusetts, available to the public, for fueling alternative fuel vehicles. Such facility shall be available to the public if feasible. 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.

As used in this subsection, the following words and phrases shall have the following meanings:— “Alternative fuel”, methanol, denatured ethanol, and other alcohols; mixtures

33 containing 85 percent or more by volume of methanol, denatured ethanol, and other alcohols  
34 with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid  
35 fuels; fuels (other than alcohol) derived from biological materials; electricity (including  
36 electricity from solar energy); and any other fuel that the department of environmental protection  
37 determines is substantially not petroleum.

38 “Alternative fuel vehicle”, a motor vehicle, as defined at Massachusetts General Laws  
39 chapter ninety, section one, which: (1) operates exclusively on an alternative fuel; (2) meets  
40 applicable state and federal safety and emission standards; and (3) is registered in Massachusetts  
41 on the last day of the taxable year in which the credit pursuant to this subsection is claimed. In  
42 addition, for an alternative fuel vehicle less than 6,000 pounds gross vehicle weight rating, the  
43 alternative fuel vehicle shall meet ultra-low emission vehicle standards for total vehicle  
44 emissions. And for an alternative fuel vehicle equal to or greater than 6,000 gross vehicle weight  
45 rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable  
46 vehicle.

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

52 “Facility”, any structure, equipment, apparatus, wires or piping used with dispensing or  
53 charging equipment necessary to dispense an alternative fuel.

“Incremental cost”, the difference between the manufacturer’s suggested retail price of an alternative fuel vehicle and of a comparable conventionally-fueled motor vehicle.

(2) Credits allowed under this subsection shall be taken only for alternative fuel vehicles purchased in excess of state and federal requirements.

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

(4) 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 may be carried forward and used against the tax liability for one or more of the succeeding five tax periods.

(5) The credit allowed herein shall apply to taxes due for taxable periods beginning on or after January 1, 1996 and ending on or before December 31, 2002. Such credits, except for unused amounts of credits carried forward pursuant to subpart (4), shall not apply after taxable periods beginning on or after January 1, 2003.

(6) The commissioner of the department of revenue, in consultation with the commissioners of the department of environmental protection and the division of energy resources, shall promulgate rules and regulations necessary to implement the provisions of this subsection.

SECTION 3. Chapter 63 of the General Laws is hereby amended by adding the following section:—

Section 38P. (1) 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 an 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.

A credit also shall be allowed against the tax imposed by this chapter in an amount equal to fifty percent of the cost of constructing any facility in Massachusetts, available to the public, for fueling alternative fuel vehicles. Such facility shall be available to the public if feasible. 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.

As used in this section, the following words and phrases shall have the following meanings:—

“Alternative fuel”, methanol, denatured ethanol, and other alcohols; mixtures containing 85 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 at Massachusetts General Laws chapter ninety, section one, which: (1) operates exclusively on an alternative fuel; (2) meets applicable state and federal safety and emission standards; and (3) is registered in Massachusetts on the last day of the taxable year in which the credit pursuant to this section is claimed. In addition, for an alternative fuel vehicle less than 6,000 pounds gross vehicle weight rating, the alternative fuel vehicle shall meet ultra-low emission vehicle standards for total vehicle emissions. And for an alternative fuel vehicle equal to or greater than 6,000 gross vehicle weight rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable vehicle.

“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.

“Facility”, any structure, equipment, apparatus, wires or piping used with dispensing or charging equipment necessary to dispense an alternative fuel.

“Incremental cost”, the difference between the manufacturer’s suggested retail price of an alternative fuel vehicle and of a comparable conventionally-fueled motor vehicle.

(2) Credits allowed under this section shall be taken only for alternative fuel vehicles purchased in excess of state and federal requirements.

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

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

(5) The credit allowed herein shall apply to taxes due for taxable periods beginning on or after January 1, 1996 and ending on or before December 31, 2002. Such credits, except for unused amounts of credits carried forward pursuant to subpart (4), shall not apply after taxable periods beginning on or after January 1, 2003.

(6) 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;

(7) The credit allowed under this section shall be subject to the provisions of section thirty-two C of this chapter.

(8) 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



138 applied against the excise liability of any other corporation pursuant to an election under the  
139 provisions of section thirty-two B.

140 The commissioner of the department of revenue, in consultation with the commissioners  
141 of the department of environmental protection and the division of energy resources, shall  
142 promulgate rules and regulations necessary to implement the provisions of this section.

143 SECTION 4. Section 4 of chapter 64E of the General Laws, as appearing in the 1994  
144 Official Edition, is hereby amended by adding the following two sentences:— No person shall  
145 pay an excise pursuant to this chapter, for alternative fuel, when the alternative fuel is dispensed  
146 into an alternative fuel vehicle; provided, however, that the exemption provided in this sentence  
147 shall not apply to any such sales made after December 31, 2002. The terms “alternative fuel,”  
148 and “alternative fuel vehicle” shall have the meanings as set forth at section six of chapter sixty-  
149 two.

150 SECTION 5. Section 3 of chapter 64F of the General Laws, as appearing in the 1994  
151 Official Edition, is hereby amended by inserting after the word “sixty-four A”, in line 9, the  
152 following:— ; provided, however, that no person shall pay an excise pursuant to this chapter for  
153 the privilege of using the highways of the commonwealth while operating an alternative fuel  
154 vehicle; provided further that the exemption provided in this sentence shall not apply to any such  
155 sales made after December 31, 2002. The term “alternative fuel vehicle” shall have the meaning  
156 as set forth at section six of chapter sixty-two.

157 SECTION 6. Section 6 of chapter 64H of the General Laws is hereby amended by adding  
158 the following two paragraphs:— (rr) sales of equipment, parts and materials used directly  
159 and exclusively for converting a conventionally fueled motor vehicle to an alternative fuel

vehicle; and sales of any alternative fuel vehicle, to the extent its manufacturer's suggested retail price exceeds the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle. The exemption provided in this paragraph shall not apply to any such sales made after December 31, 2002. As used in this paragraph and paragraph (ss), the terms "alternative fuel," "alternative fuel vehicle," "comparable conventionally fueled motor vehicle," shall have the meanings as set forth at section six of chapter sixty-two.

(ss) Sales of equipment, parts and materials used directly and exclusively to dispense alternative fuel into alternative fuel vehicles. The exemption provided in this paragraph shall not apply to any such sales made after December 31, 2002.

SECTION 7. Section 1 of chapter 90 of the General Laws is hereby amended by inserting after the definition of "Police officer", as appearing in the 1994 Official Edition, the following definition:— "Reduced Emissions Vehicle", an ultra-low emissions vehicle or a zero emissions vehicle, in each case as so defined by the department of environmental protection pursuant to the provisions of section one hundred and forty-two K of chapter one hundred and eleven.

SECTION 8. Section 2 of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:—

The registrar shall furnish to owners of reduced emissions vehicles upon application and upon presentation of evidence deemed satisfactory by the registrar, a distinctive license plate bearing on the left side the letters "REV" and an adhesive emblem bearing the letters "REV" to be affixed to the vehicle identifying the vehicle as a reduced emissions vehicle. There shall be no additional fee for said plates or adhesive emblems.

SECTION 9. Chapter 164 of the General Laws, as appearing in the 1994 Official Edition,  
is hereby amended by adding, after section 94, the following section:—

Section 94½. Notwithstanding the provisions of chapter one hundred sixty-four, section  
ninety-four 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  
records, books, and accounts of such unregulated sales sufficient to allow the department of  
public utilities to allocate costs and revenues; and further provided that such gas or electric  
company's sale of alternative fuel for use in motor vehicles and its investment in related  
infrastructure shall not affect the quality of service or increase the cost of alternative fuel to said  
company's customers who purchase alternative fuel for use other than motor vehicle use. For the  
purposes of this section, "alternative fuel" shall have the same meaning as set forth at section six  
of chapter sixty-two.