HOUSE DOCKET, NO. 2556 FILED ON: 1/16/2015

HOUSE . . . . . No. 3290

The Commonwealth of Massachusetts

PRESENTED BY:

Peter J. Durant

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 establishing a tax credit for the construction and operation of a natural gas refueling station.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Peter J. Durant	*6th Worcester*
Joseph D. McKenna	*18th Worcester*
Kevin J. Kuros	*8th Worcester*
Kate D. Campanale	*17th Worcester*

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HOUSE . . . . . No. 3290

By Mr. Durant of Spencer, a petition (accompanied by bill, House, No. 3290) of Peter J. Durant and others for legislation to establish a tax credit for the construction and operation of natural gas refueling stations. Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act establishing a tax credit for the construction and operation of a natural gas refueling station.

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

SECTION 1. Chapter 62 of the General Laws is hereby amended by inserting after section 6N, as appearing in the 2012 Official Edition, the following section:-

Section 6O. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Commissioner", the commissioner of revenue.

"Department", the department of revenue.

"Eligibility statement", a statement authorized and issued by the department certifying that a given project is a qualified project. The department shall, in consultation with the commissioner, promulgate regulations establishing criteria upon which the eligibility statements will be issued. The eligibility statement shall specify the maximum annual amount of the

11 Massachusetts compressed natural gas tax credit authorized. The department shall only authorize
12 the tax credits to qualified projects which are placed in service on or after January 1, 2016.

13 "Qualified project", a project for the construction of a refueling station of facility that
14 sells or offers for sale compressed natural gas directly to consumers for fueling automobiles or
15 other vehicles or the renovation of an existing station, facility or lot to provide such station with
16 the equipment and structure necessary to sell or offer for sale compressed natural gas.

17 "Taxpayer", a person, firm, partnership or other entity subject to the income tax imposed
18 by the provisions of this chapter hired as a contractor, subcontractor or otherwise to perform
19 construction on a qualified project.

20 (b)(1) There shall be a Massachusetts compressed natural gas tax credit. The department
21 may authorize annually under this section together with section 38GG of chapter 63 the total sum
22 of: (i) $5,000,000; (ii) unused Massachusetts compressed natural gas tax credits, if any, for the
23 preceding calendar years; and (iii) Massachusetts compressed natural gas tax credits returned to
24 the department by a qualified project.

25 (2) Unless otherwise provided in this section or the context clearly requires otherwise, the
26 department shall authorize, administer, determine eligibility for the Massachusetts compressed
27 natural gas tax credit.

28 (3) The department shall allocate the total available Massachusetts compressed natural
29 gas tax credit among as many qualified projects as fiscally feasible, with the goal of increasing
30 the amount of refueling stations in the commonwealth that offer compressed natural gas.

31 (c)(1) A taxpayer may be allowed a state tax credit with respect to a qualified project,
32 provided that the department issues an eligibility statement for that qualified project. This state
33 tax credit shall be termed the Massachusetts compressed natural gas tax credit.

34 (2) The total Massachusetts compressed natural gas tax credit available to a qualified
35 project shall be authorized and allocated by the department, or its successor agency, based on the
36 qualified project's need for the credit for economic feasibility.

37 (3) The Massachusetts compressed natural gas tax credit shall be taken against the taxes
38 imposed under this chapter, claimed equally for 5 years, subtracted from the amount of state tax
39 otherwise due for each taxable period and shall not be refundable. Any amount of the
40 Massachusetts compressed natural gas tax credit that exceeds the tax due for a taxable year may
41 be carried forward to any of the 5 subsequent taxable years.

42 (4) All or any portion of tax credits issued in accordance with the provisions of this
43 section may be allocated to parties who are eligible under the provisions of paragraph (1) of
44 subsection (c). A taxpayer shall certify to the commissioner the amount of credit allocated to
45 such taxpayer. The taxpayer shall provide to the commissioner appropriate information so that
46 the Massachusetts compressed natural gas tax credit can be properly allocated.

47 (5) In the event that recapture of Massachusetts compressed natural gas tax credit is
48 required, any statement submitted to the commissioner as provided in subsection (c) shall include
49 the proportion of the state credit required to be recaptured, the identity of each taxpayer subject
50 to the recapture and the amount of credit previously allocated to such taxpayer.

51 (6) The director of the department, in consultation with the commissioner, shall
52 promulgate regulations necessary to administer the provisions of this subsection.

53 (d) The taxpayer shall submit, at the time of filing the taxpayer's state tax return, a copy
54 of the eligibility statement issued by the department with respect to such qualified project. In the
55 case of failure to attach the eligibility statement, a credit under this section shall not be allowed
56 with respect to such qualified project for that year until the copy is provided to the department of
57 revenue.

58 (e) The commissioner or the department, through the promulgation of regulations, may
59 require the filing of additional documentation necessary to determine the eligibility or accuracy
60 of a tax credit claimed under the provisions of this section.

61 (f) The department, in consultation with the commissioner, shall monitor and oversee
62 compliance with the Massachusetts compressed natural gas tax credit program and may
63 promulgate regulations requiring the filing of additional documentation deemed necessary to
64 determine continuing eligibility for the Massachusetts compressed natural gas tax credit. The
65 department or the commissioner shall report specific occurrences of noncompliance to
66 appropriate state, federal and local authorities.

67 (g) Except for unused credits carried forward pursuant to paragraph (3) of subsection (c)
68 and section 38GGH of chapter 63, a qualified project shall not be eligible for any Massachusetts
69 compressed natural gas tax credits for more than 7 taxable years.

70 (h) The department may provide that upon application for state tax credits issued by the
71 department, such taxpayer may elect to receive such state tax credit in the form of a loan
72 generated by transferring the credit to the department or its designee on terms specified by the
73 department in accordance with its qualified allocation plan. Neither a direct tax refund nor a loan

74 received as the result of the transfer of the credit shall be considered taxable income under this
75 chapter.

76 (i) The department may pursue methods of enhancing the efficiency of the Massachusetts
77 compressed natural gas tax credit program including but not limited to: pursuing opinions from
78 the United States department of treasury's internal revenue service in the form of general counsel
79 memoranda, private letter rulings and other notices, rulings or guidelines; by reviewing other
80 state tax programs which utilize an option for taxpayers to receive such tax credit in the form of a
81 loan generated by transferring the credit to a designated state entity; and any other such methods.

82 SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after
83 section 38FF, as so appearing, the following section:-

84 Section 38GG. (a) For the purposes of this section, unless the context clearly requires
85 otherwise, the following words shall have the following meanings:-

86 “Commissioner”, the commissioner of the department of revenue.

87 “Department”, the department of revenue.

88 “Eligibility statement”, a statement authorized and issued by the department certifying
89 that a given project is a qualified project. The department, in consultation with the commissioner,
90 shall promulgate regulations establishing criteria upon which the eligibility statements shall be
91 issued. The eligibility statement shall specify the maximum annual amount of the Massachusetts
92 compressed natural gas tax credit authorized. The department shall only authorize the tax credits
93 to qualified projects which are placed in service on or after January 1, 2016.

94 “Qualified project”, a project for the construction of a refueling station of facility that
95 sells or offers for sale compressed natural gas directly to consumers for fueling automobiles or
96 other vehicles or the renovation of an existing station, facility or lot to provide such station with
97 the equipment and structure necessary to sell or offer for sale compressed natural gas.

98 “Taxpayer”, a corporation subject to an excise imposed by the provisions of this chapter,
99 including, without limitations, section 2, sections 20 to 23, inclusive, section 29A, section 32 and
100 section 39, hired as a contractor, subcontractor or otherwise to perform construction on a
101 qualified project..

102 (b)(1) There shall be a Massachusetts compressed natural gas tax credit. The department
103 may authorize annually under this section together with section 6O of chapter 62 the total sum
104 of: (i) $5,000,000; (ii) unused Massachusetts compressed natural gas tax credit, if any, for the
105 preceding calendar years; and (iii) any Massachusetts compressed natural gas tax credit returned
106 to the department by a qualified project.

107 (2) Unless otherwise provided in this section or the context clearly requires otherwise, the
108 department shall authorize, administer, determine eligibility for the Massachusetts compressed
109 natural gas tax credit.

110 (3) The department shall allocate the total available Massachusetts compressed natural
111 gas tax credit among as many qualified projects as fiscally feasible, with the goal of increasing
112 the amount of refueling stations in the commonwealth that offer compressed natural gas.

113 (c)(1) A taxpayer may be allowed a state tax credit with respect to a qualified project,
114 provided that the department issues an eligibility statement for that qualified project. This state
115 tax credit shall be termed the Massachusetts compressed natural gas tax credit.

116 (2) The total Massachusetts compressed natural gas tax credit available to a qualified
117 project shall be authorized and allocated by the department, or its successor agency, based on the
118 qualified project's need for the credit for economic feasibility.

119 (3) The Massachusetts compressed natural gas tax credit shall be taken against the taxes
120 imposed under this chapter, claimed equally for 5 years, subtracted from the amount of state tax
121 otherwise due for each taxable period and shall not be refundable. Any amount of the tax credit
122 that exceeds the tax due for a taxable year may be carried forward to any of the 5 subsequent
123 taxable years.

124 (4) All or any portion of tax credits issued in accordance with the provisions of this
125 section may be allocated to parties who are eligible under the provisions of paragraph (1) of
126 subsection (c). A taxpayer shall certify to the commissioner the amount of credit allocated to
127 such taxpayer. The taxpayer shall provide to the commissioner appropriate information so that
128 the Massachusetts compressed natural gas tax credit can be properly allocated.

129 (5) In the event that recapture of Massachusetts compressed natural gas tax credits is
130 required, any statement submitted to the commissioner as provided in subsection (c) shall include
131 the proportion of the state credit required to be recaptured, the identity of each taxpayer subject
132 to the recapture and the amount of credit previously allocated to such taxpayer.

133 (6) The director of the department, in consultation with the commissioner, shall
134 promulgate regulations necessary to administer the provisions of this subsection.

135 (d) The taxpayer shall submit, at the time of filing the taxpayer’s state tax return, a copy
136 of the eligibility statement issued by the department with respect to such qualified project. In the
137 case of failure to attach the eligibility statement, a credit under this section shall not be allowed

138 with respect to such qualified project for that year until the copy is provided to the department of
139 revenue.

140 (e) The commissioner or the department may require the filing of additional
141 documentation necessary to determine the eligibility or accuracy of a tax credit claimed under
142 the provisions of this section through the promulgation of regulations.

143 (f) The department, in consultation with the commissioner, shall monitor and oversee
144 compliance with the Massachusetts compressed natural gas tax credit program and may
145 promulgate regulations requiring the filing of additional documentation deemed necessary to
146 determine continuing eligibility for the Massachusetts compressed natural gas tax credit. The
147 department or the commissioner shall report specific occurrences of noncompliance to
148 appropriate state, federal and local authorities.

149 (g) Except for unused credits carried forward pursuant to section 6O of chapter 62 and
150 paragraph (3) of subsection (c) of this section, a qualified project shall not be eligible for any
151 Massachusetts compressed natural gas tax credits for more than 7 taxable years.

152 (h) The department may provide that upon application for state tax credits issued by the
153 department, such taxpayer may elect to receive such state tax credit in the form of a loan
154 generated by transferring the credit to the department or its designee on terms specified by the
155 department in accordance with its qualified allocation plan. Neither a direct tax refund nor a loan
156 received as the result of the transfer of the credit shall be considered taxable income under this
157 chapter.

158 (i) The department may pursue methods of enhancing the efficiency of the Massachusetts
159 compressed natural gas tax credit program including but not limited to; pursuing opinions from

160 the United States department of treasury's internal revenue service in the form of general counsel
161 memoranda, private letter rulings and other notices, rulings or guidelines and reviewing other
162 state tax programs which utilize an option for taxpayers to receive such tax credit in the form of a
163 loan generated by transferring the credit to a designated state entity.