SENATE DOCKET, NO. 858 FILED ON: 1/20/2011

SENATE . . . . . No. 1471

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 passage of the accompanying:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas P. Kennedy	*[District]*

SENATE DOCKET, NO. 858 FILED ON: 1/20/2011

SENATE . . . . . No. 1471

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.

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

The Commonwealth of Massachusetts

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:

SECTION 1. Section 22A of chapter 40 of the General Laws is hereby amended by adding the following paragraph:—

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

18 For a motor vehicle which has been converted to an alternative fuel vehicle, the credit
19 allowed shall be claimed in the first taxable year in which such conversion occurs. Conversion
20 costs eligible for such credit shall include the cost of purchasing conversion equipment necessary
21 to convert a motor vehicle to an alternative fuel vehicle and the labor costs associated with
22 installing such conversion equipment.

23 A credit also shall be allowed against the tax imposed by this chapter in an amount equal
24 to fifty percent of the cost of constructing any facility in Massachusetts, available to the public,
25 for fueling alternative fuel vehicles. Such facility shall be available to the public if feasible.
26 Facility costs eligible for a credit under this paragraph include the cost of purchasing fueling
27 equipment, charging equipment and other materials necessary for the facility to fuel alternative
28 fuel vehicles and the labor costs associated with constructing the facility and installing such
29 equipment. This credit shall be claimed in the first taxable year in which the facility becomes
30 operational.

31 As used in this subsection, the following words and phrases shall have the following
32 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.

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

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

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

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

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

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

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

74 Section 38P. (1) A credit shall be allowed against the tax imposed by this chapter in an
75 amount equal to fifty percent of the incremental cost of purchasing an alternative fuel vehicle
76 and fifty percent of the cost of converting a petroleum fueled motor vehicle to an alternative fuel
77 vehicle.

78 For an originally equipped alternative fuel vehicle, the credit allowed shall be claimed in
79 the first taxable year in which the vehicle is registered.

80 For a motor vehicle which has been converted to an alternative fuel vehicle, the credit
81 allowed shall be claimed in the first taxable year in which such conversion occurs. Conversion
82 costs eligible for such credit shall include the cost of purchasing conversion equipment necessary
83 to convert a motor vehicle to an alternative fuel vehicle and the labor costs associated with
84 installing such conversion equipment.

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

88 Facility costs eligible for a credit under this paragraph include the cost of purchasing fueling
89 equipment, charging equipment and other materials necessary for the facility to fuel alternative
90 fuel vehicles and the labor costs associated with constructing the facility and installing such
91 equipment. This credit shall be claimed in the first taxable year in which the facility becomes
92 operational.

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

95 "Alternative fuel", methanol, denatured ethanol, and other alcohols; mixtures containing
96 85 percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline
97 or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels
98 (other than alcohol) derived from biological materials; electricity (including electricity from
99 solar energy); and any other fuel that the department of environmental protection determines is
100 substantially not petroleum.

101 "Alternative fuel vehicle", a motor vehicle, as defined at Massachusetts General Laws
102 chapter ninety, section one, which: (1) operates exclusively on an alternative fuel; (2) meets
103 applicable state and federal safety and emission standards; and (3) is registered in Massachusetts
104 on the last day of the taxable year in which the credit pursuant to this section is claimed. In
105 addition, for an alternative fuel vehicle less than 6,000 pounds gross vehicle weight rating, the
106 alternative fuel vehicle shall meet ultra-low emission vehicle standards for total vehicle
107 emissions. And for an alternative fuel vehicle equal to or greater than 6,000 gross vehicle weight
108 rating, the alternative fuel vehicle shall meet federal emission standards for a new comparable
109 vehicle.

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

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

117 "Incremental cost", the difference between the manufacturer's suggested retail price of an
118 alternative fuel vehicle and of a comparable conventionally-fueled motor vehicle.

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

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

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

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

131 (6) If a corporation is subject to a minimum excise under any provision of this chapter,
132 the amount of the credit allowed by this section shall not reduce the excise to an amount less than
133 the minimum excise;

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

136 (8) Any corporation entitled to a credit pursuant to this section for any taxable year shall
137 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
160 vehicle; and sales of any alternative fuel vehicle, to the extent its manufacturer's suggested retail
161 price exceeds the manufacturer's suggested retail price of a comparable conventionally fueled
162 motor vehicle. The exemption provided in this paragraph shall not apply to any such sales made
163 after December 31, 2002. As used in this paragraph and paragraph (ss), the terms "alternative
164 fuel," "alternative fuel vehicle," "comparable conventionally fueled motor vehicle," shall have
165 the meanings as set forth at section six of chapter sixty-two.

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

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

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

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

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

183 Section 94½. Notwithstanding the provisions of chapter one hundred sixty-four, section
184 ninety-four or any other special or general law to the contrary, the rates and terms for the sale of
185 alternative fuels for motor vehicle use shall not be subject to regulation by the department of
186 public utilities; provided, however, that any gas or electric company which is otherwise regulated
187 pursuant to this chapter and sells alternative fuels for motor vehicle use, shall keep separate
188 records, books, and accounts of such unregulated sales sufficient to allow the department of
189 public utilities to allocate costs and revenues; and further provided that such gas or electric
190 company's sale of alternative fuel for use in motor vehicles and its investment in related
191 infrastructure shall not affect the quality of service or increase the cost of alternative fuel to said
192 company's customers who purchase alternative fuel for use other than motor vehicle use. For the

193 purposes of this section, “alternative fuel” shall have the same meaning as set forth at section six
194 of chapter sixty-two.